

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

Plaintiff,

v.

SKIPLAGGED, INC.,

Defendant.

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Civil Action No. 4:23-cv-00860-P

**APPENDIX TO PLAINTIFF AMERICAN AIRLINES, INC.’S MOTION TO EXCLUDE
EXPERT OPINIONS AND TESTIMONY OF BIJAN VASIGH, PHD
AND BRIEF IN SUPPORT**

In support of Plaintiff American Airlines, Inc.’s (“American”) Motion to Exclude Expert Opinions and Testimony of Bijan Vasigh, PhD and Brief in Support, American submits the following materials:

<u>EX.</u>	<u>DESCRIPTION</u>	<u>PAGE NOS.</u>
A	Declaration of Julia G. Wisenberg	App’x 001–03
A-1	Expert Report of Bijan Vasigh, PhD, served by Defendant Skiplagged, Inc. on April 23, 2024	App’x 004–70
A-2	Transcript of the deposition of Bijan Vasigh, PhD, taken on June 6, 2024	App’x 071–96
A-3	Expert Rebuttal Report of Darin N. Lee, PhD, served by American on May 31, 2024 (Confidential)	App’x 097–161
A-4	Transcript of the deposition of Darin N. Lee, PhD, taken on July 11, 2024 (Partially Confidential)	App’x 162–210

Dated: August 26, 2024

Respectfully submitted,

/s/ Dee J. Kelly, Jr.

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on August 26, 2024, I served the foregoing document electronically in accordance with the Federal Rules of Civil Procedure.

/s/ Dee J. Kelly, Jr.

Dee J. Kelly, Jr.

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
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AMERICAN AIRLINES, INC.,

Plaintiff,

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SKIPLAGGED, INC.,

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Civil Action No. 4:23-cv-00860-P

DECLARATION OF JULIA G. WISENBERG

STATE OF TEXAS §
§
COUNTY OF TARRANT §

1. My name is Julia G. Wisenberg. I am over the age of 21 and competent to make this declaration as authorized under 28 U.S.C. § 1746. My business address is 201 Main Street, Suite 2500, Fort Worth, Texas 76102.

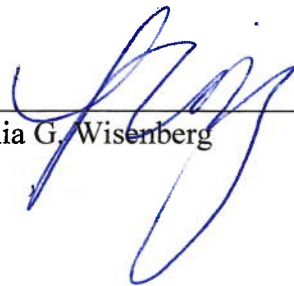
2. I make this declaration in support of Plaintiff American Airlines, Inc.'s ("American") Motion to Exclude Expert Opinions and Testimony of Bijan Vasigh, PhD and Brief in Support.

3. Attached as Exhibit A-1 is a true and correct copy of the Expert Report of Bijan Vasigh, PhD, served by Defendant Skiplagged, Inc. on April 23, 2024.

4. Attached as Exhibit A-2 is a true and correct copy of the transcript of the deposition of Bijan Vasigh, PhD, taken on June 6, 2024.

5. Attached as Exhibit A-3 is a true and correct copy of the Expert Rebuttal Report of Darin N. Lee, PhD, served by American on May 31, 2024.
6. Attached as Exhibit A-4 is a true and correct copy of the transcript of the deposition of Darin N. Lee, PhD, taken on July 11, 2024.
7. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 26, 2024.



Julia G. Wisenberg

Exhibit A-1

Hidden city travel and its impact upon passengers

Implications for the traveling public

Dr. Bijan Vasigh, Professor

INTRODUCTION OF DR. VASIGH

Professor Bijan Vasigh is currently a Professor of Economics and Finance in the College of Business at Embry-Riddle Aeronautical University, Daytona Beach, Florida, and the President and Founder of Aviation Consulting Group. He has an extensive history and résumé with the airline industry. His extensive qualifications and curriculum are attached.

Professor Vasigh has focused his consulting and teaching on the theory, modeling, application of financial instruments in transport finance, and provides expert opinion in court cases. He is the author of North America's leading aviation textbooks, including *An Introduction to Air Transport Economics: From Theory to Application*, *Foundation of Airline Finance: Methodology and Practices*, and *Aircraft Valuation in Volatile Market Condition*.

Professor Vasigh's work has led to formal collaborations with multiple domestic government agencies and foreign governments, such as the International Civil Aviation Organization ("ICAO"), the Association of Unmanned Vehicle Systems International ("AUVSI"), the International Air Transport Association ("IATA") Learning Center, and NASA on a grant on "Determination of Statewide Economic Benefits of the Small Aircraft Transportation System ("SATS"). Professor Vasigh diligently served as a key member of a three-person task force appointed by the Prime Minister of Trinidad and Tobago. The primary objective of the task force was to conduct a comprehensive investigation into the slot valuation procedures at London Heathrow Airport.

He has been interviewed and quoted by national and international news media, including *The Washington Post*, *Wall Street Journal*, NBC News, CBS News, *USA Today*, *Forbes*, Bloomberg Business, National Public Radio ("NPR") Marketplace, Voice of Russia, El Pais (Spain), Rzeczpospolita (Poland), Trinidad Express, Cuba News, and *The Guardian* (United Kingdom), among others. Professor Vasigh's résumé is attached to this report as Ex. A.

REPORT

I. TASK

I have been asked by William L. Kirkman, an attorney in a pending lawsuit instituted by American Airlines against Skiplagged, Inc., to provide an expert opinion relating to hidden-city ticketing and Skiplagged, Inc.'s business operations related thereto based on my knowledge and expertise of the airline industry and of the concept of hidden-city ticketing.

I have set out in Ex. B, the material I have received from Mr. Kirkman and which I have reviewed. I have also prepared this report in the form of an Executive Summary and then the report itself.

II. EXECUTIVE SUMMARY

Before 1978 and during the regulated era, the Civil Aeronautics Board (CAB) had full power to regulate all domestic interstate air transportation as a public utility and set routes, fares, and schedules. The CAB strived to keep fares reasonably low for public welfare while ensuring reasonable profit for airlines. The CAB's approach, which was mostly cost-based, often results in higher fares for longer trips (to some extent subsidized short-hauls through higher fares on long-hauls). The airlines had a virtual guarantee of profitability and protected markets to support that. The inefficiency of this system, along with passenger dissatisfaction due to rising prices, set the stage for the abolition of rigid regulation in favor of open market competition where the primary role of government is focused on safety (e.g., through FAA) and ensuring fair market competition (e.g., anti-trust law to support unrestricted market entry and prevent market concentration). The regulated era ended with the Airline Deregulation Act of 1978, which immediately resulted in the start of new airlines and fierce competition in airline fares.

The free-market foundation that fueled deregulation quickly resulted in lower competitive fares and the advent of new, innovative approaches to airline management. Leaving the cost-based approach behind, airlines adopted value-based fare pricing, which seeks to capture the highest return that can be demanded based on customers' willingness to pay. In other words, the price elasticity of demand drives the fare rather than the cost (which often closely correlates with distance). This enabled airlines to exploit high-demand markets for much higher fares and profit

margins. Consequently, an unprofitable route would be abandoned over time and perhaps picked up by a more competitive airline whose cost structure enables them to operate the route with a positive return, given the passengers' willingness to pay. Low-Cost Carriers (LCC) seem to fill this role, especially in smaller markets, which are feared to be subjected to service erosion due to lower demand and higher price sensitivity.

Aside from value-based pricing, deregulation facilitated the creation of the hub-and-spoke system by network carriers. Demand from smaller markets can be aggregated at a hub for final destinations, thus taking advantage of the economy of scale and resource aggregation, among other benefits. This practice resulted in cost savings for the airline but came at the cost of losing direct flights for the passengers (direct flights, however, were offered by LCC, although perhaps via secondary airports).

Subsequently, airlines expanded their focus and presence at a subset of airports, often distinct from one airline to another, and soon controlled a significant majority of the market at those selected hubs and focus cities. The term "fortress hubs" was coined in the 80s to highlight the significant market dominance of an airline in a hub airport, which inevitably comes with non-competitive and rather monopolistic routes to and from said hub. Even though anti-trust laws forbid it, hubs are naturally less hospitable to the entry of new airlines, which may pose serious challenges to Hubs' airlines. Such a market concentration that defies competition was not the intent of deregulation but appears as its consequence.

The Hidden City Ticketing (HCT) came into existence as a result of the aforementioned evolution in airline fare pricing post-deregulation. HCT is also referred to as "point beyond ticketing", cross-border ticketing", and "skiplagging." Simply put, HCT is the practice of purchasing a multi-segment flight itinerary with the intention of only using the first segment(s) of the itinerary because the fare of the extended itinerary is (significantly) cheaper than the fare of the intended first segment(s) alone¹. In other words, the customer is paying for a bundle of products with the intention of only using part of the purchase and foregoing the reminder. Figure 1 below illustrates a typical HCT.

¹ In theory, HCT may also cover a scenario that passenger extended their itinerary by adding a segment before the intended segment. However, in practice, airline will cancel the entire itinerary if the passenger does not show up for the first segment. Thus, this scenario has is inapplicable and ignored in this document.

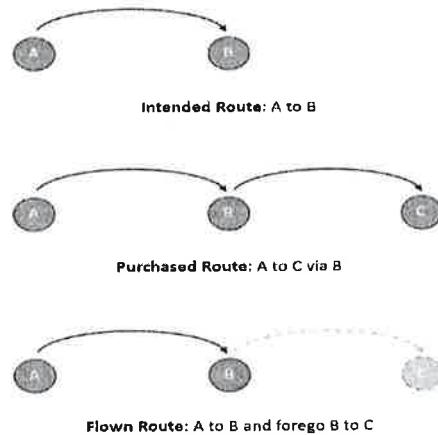


Figure 1. Under HCT, a passenger purchases the itinerary for A to C with a connection at B at a price cheaper than the A to B itinerary, which is their intended itinerary. The passenger plans to only use the A to B segment and forego the B to C segment.

The HCT opportunity often only exists when the first segment (the intended segment) ends at a hub, and the final purchased itinerary destination is a non-hub of the operating airline. The existence of HCT is not guaranteed, and in fact, on a given route, it may dynamically appear and disappear over time. Nevertheless, various studies confirm the existence of HCT opportunities in the network of all major US carriers².

The HCT opportunities, however, come at a cost and are not always available to passengers. Passengers who use HCT are often forced not to have checked-in luggage as they cannot retrieve their bags at a connecting airport. The fear of the airline's retaliation also deters passengers from using their frequent flyer program, and notable (or regular) use of HCT may place the passenger on the airlines' banned travelers list. Moreover, passengers accept the entire risk of delays and misconnections. Not to mention that HCT could only be used on one-way tickets or the return segment of two-way tickets, as airlines will cancel all future flights on an itinerary suspicious of practicing HCT. Given these consequences, the HCT price deviation with direct booking must be significant enough to justify the risk and limitations.

The primary reason for the existence of HCT is the value-based pricing of airline fares and the significant advantage such provides to the flying consumer public. Often, an airline faces

² According to the US General Accounting Office (GAO) about 17 percent of itineraries offered by major US airlines during their investigation exhibit HCT opportunities of \$100 for high-fare class or \$50 for low-fare classes (Hecker 2001).

limited competition at its hub, which allows it to exploit the opportunity to demand higher fares with less fear of competition interference. On the other hand, a non-hub destination more closely resembles a free-market scenario for an airline where the thread of response from a competitor shall be considered carefully. In such markets, passengers could choose between competitors. Thus, the fare a passenger accepts is not capped by their willingness to pay but determined by the best price offered, which may be significantly lower than the passenger's willingness to pay. Indeed, cost-based pricing that determines the fare by distance traveled will never allow for the existence of HCT opportunities.

On the routes prone to offer an HCT opportunity, we often see the opportunities occur closer to the departure day. It is a common practice in the airline industry to raise the price as the departure day of a given flight approaches. Passengers who purchase their tickets late are often the ones who realize the need to travel late, a need that may be accompanied by an urgency that raises the passengers' willingness to pay. So, airlines tend to exploit this urgent need of travelers to demand a higher price for their remaining seats closer to the departure. This rise in price, of course, will be affected by competition and airlines' understanding of price elasticity in a market.

The HCT is undesirable to airlines as it prevents them from exploiting the market, and demanding higher prices that they claim to be entitled to by leveraging their market dominance and lower competition.

Moreover, an unused flight may result in an empty seat without significant advanced notice to the airline; this means that the given airline lost the opportunity to make money from the seat a passenger purchased but chose not to use. However, this outcome highly depends on the airline's overbooking practice and only applies to a scenario in which all seats on the unused flight are sold out.

Indeed, airlines can easily eliminate all HCT opportunities since they set the fares. However, this practice means forgoing the opportunity to demand higher fares in less competitive markets and losing passengers to other airlines with lower fares in more competitive markets. Overall, the loss from this approach is expected to outweigh the potential savings of disallowing HCT.

The ability to profile passengers in a market and estimate their willingness to pay and their price elasticity is a critical capability that aids airlines in maximizing their profit. Airlines have the complete power to set prices and benefit from the availability of big data. In contrast, passengers often have less access to data and only have the power to choose when meaningful competing options are available. However, under the HCT, throwaway ticketing³, back-to-back ticketing⁴, and similar practices, passengers avoid the power imbalance by purchasing products that do not match the profile airlines expect from them. That provides a significant advantage to the flying consumer public and, in my opinion, is justified in the consumer marketplace. Hence, Skiplagged's business practice is justifiable.

III. INTRODUCTION

Before the Airline Deregulation Act of 1978 in the United States, airlines operated under a regulatory framework that imposed strict control over various aspects of their operations, especially fares. The government had authority over routes, schedules, and fares for commercial air travel. However, the Airline Deregulation Act of 1978 fundamentally changed the regulatory landscape for the airline industry in the United States. Deregulation reduced government intervention by removing many of the regulatory constraints that had previously governed airlines.

One of the byproducts of deregulation in the airline industry was the emergence of hub-and-spoke network (H&S).⁵ Figure 2 below illustrates a typical hub and spoke network. Deregulation allowed airlines greater freedom in selecting their routes and ticket prices. In this new network structure, airlines designate certain airports as hubs where they concentrate a large number of flights, connecting passengers from various origins to their final destinations through these central points. Major U.S. hub airports serve as the headquarters for numerous Fortune 500 companies, and these airports primarily cater to business travelers. These travelers typically

³ Throwaway ticketing is a special case of HCT where a round trip ends up to be cheaper than the one way ticket. Thus, a passenger benefit from buying the round trip with no intention of using the return ticket.

⁴ Back-to-back ticketing is also known as bracketing, nested ticketing, and cross-ticketing. An example of this practice is where a passenger purchased two cheaper tickets with minimum stay and weekend stay but use them out of sequence as two more expensive mid-week return tickets.

⁵ Airline hubs are airports that serve as central points for airlines, facilitating the efficient transfer of passengers between connecting flights. Airline hubs are often situated in major cities or regions with high passenger demand.

exhibit a low-price elasticity of demand, meaning they are less sensitive to changes in ticket prices. Many major hub airports around the world are characterized by the dominance of one or two airlines, which command a lion's share of the air traffic.⁶ Hereafter, airlines can leverage this monopoly to command higher ticket prices due to the reduced sensitivity of business travelers to price fluctuations.

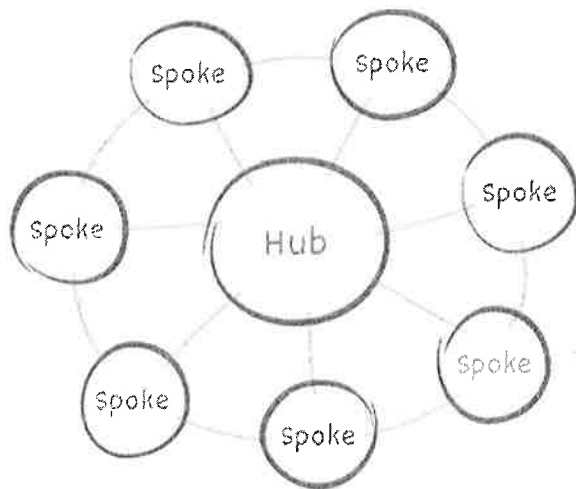


Figure 2: Hub and Spoke Network

As a result of deregulation, airlines gained the ability to implement dynamic pricing models, such as revenue management systems, which enabled airlines to adjust fares in real-time based on factors such as demand, competition, and inventory levels. Airline revenue management (RM), as we understand it today, is indeed considered a spinoff of deregulation, particularly in the United States. RM involves analyzing market demand, setting prices dynamically, and controlling the availability of fares across different booking classes. Revenue management systems help airlines allocate their limited capacity to the most profitable market segments (mainly from HUB) while balancing factors such as demand, and competition.

In this market environment, airlines have incentives to both reject passengers who are not willing to pay higher fares, in order to save inventory for higher value passengers, as well as to accept those lower-valued passengers, in order not to have inventory be unused. Hence, the objective of RM in the airline is to maximize revenue by selling the right product to the right

⁶ This dominance can give the airline considerable pricing power and control over routes, making it difficult for competitors to enter the market.

customer at the right time and for higher prices. Airlines employ sophisticated revenue management systems to optimize their profits by selling tickets at various prices to different types of passengers. This practice often involves a form of price discrimination, where passengers are charged different prices based on their willingness to pay. One common method is to charge higher prices for less price-sensitive passengers while offering discounts to more price-sensitive ones. Effectively, passengers flying in and out of hub airports often exhibit lower price elasticity of demand compared to those flying on non-hub routes. This strategy allows airlines to maximize revenue by capturing as much value as possible from each passenger segment. (Wandelt and Zhang, 2023).

Upon reviewing the attached Exhibit C it is evidence that there are fluctuations in ticket prices across different cities in Texas when flying via Dallas. Notably, the existence of hub premiums in certain markets adds an interesting dimension to this case.

Indeed, there are numerous travel websites and online platforms dedicated to helping passengers find the best deals on flights by offering various tools and features to compare prices and optimize travel itineraries. Skiplagged is one of these. These sites, including Skiplagged, leverage technology and data analysis to provide users with options to save money, including changing their itinerary to lower costs. Here's how these travel sites typically operate: Flight comparison tools, multi-city itineraries, price alerts, and flexible date searches. By leveraging these features and functionalities, passengers can use travel websites to explore various options and potentially find cheaper flights by adjusting their itinerary, being flexible with their travel dates, or taking advantage of special deals and promotions.

IV. HIDDEN-CITY TICKETING (HCT)

Major airports around the world serve as hubs for airlines, acting as central points where flights converge, and passengers transfer between different routes. These hubs are typically located in large cities and serve as primary points of departure and arrival for many flights. Hub carriers tend to charge higher fares to their passengers at their hubs, this may be called hub premium. The hub premium relates to higher fares for flights leaving from a carrier's hub airport. That is, all other things being equal, the fare is higher than it would have been if the departure

airport had not been the carrier's hub. The term 'hub premium' was introduced by Berry, Carnall and Spiller (1996), but the first to introduce the concept in general was Levine (1987).

The pricing of individual airline tickets has not been based on the cost of offering that exact seat, but it has always been based on how much airlines *can charge different passengers*. So, some tickets are sold at incredibly expensive ticket prices, while other tickets are sold at a very low price, sometimes below what it costs the airline to operate that seat.

HCT is an interesting airline ticket-pricing practice and occurs when an itinerary connecting at an intermediate city is less expensive than a ticket from the origin to the intermediate city. Hidden city ticketing (HCT) is a strategy used by some passengers to save money on airfare by booking a flight with a layover at their intended destination, and then intentionally skipping the connecting flight to stay at the layover city. HCT takes advantage of pricing disparities in airline ticketing, where sometimes flying from point A to point B with a layover at point C can be cheaper than a direct flight from A to B.

Airlines employ pricing strategies, where ticket prices fluctuate based on factors such as demand, monopoly power, and availability. This can lead to situations where indirect flights with layovers are priced lower than direct flights to certain destinations. Airlines often charge higher fares for flights that originate from or terminate at these major hub airports compared to flights between non-hub airports. This is because airlines have significant monopoly power, higher demand, offer greater connectivity, more flight options, and allow airlines to command higher prices for tickets.

With the advent of the internet and online booking platforms in the late 1990s and early 2000s, consumers gained unprecedented access to flight information and booking options. This accessibility empowered travelers to compare prices, explore different itineraries, and discover potential loopholes in airline pricing structures. Skiplagging, also known as hidden city ticketing, is a practice where a passenger purchases a ticket with a layover at the passenger's actual destination, intending to disembark at the layover airport instead of the final destination. The history of skiplagging can be traced back to the 1990s when the internet revolutionized the way

people searched for and booked flights.⁷ With the emergence of online travel agencies and flight comparison websites, consumers gained access to a wealth of information and options for finding cheaper airfare. Passengers, seeking to save money or find more convenient routes, may have exploited the structure of airline pricing and routing. However, with the growth of the Internet, it is becoming easier for passengers to find such opportunities.

The level of concentration within an airline's hub-and-spoke network is a key driver of HCT. For example, the Dallas Fort Worth International Airport ("DFW") is currently served by 28 airlines that between them operate around 865 daily departures to 261 destinations across the US and the globe. American currently has about 84% of the market share at DFW, making it the largest carrier at the airport.⁸

HCT is an interesting airline ticket-pricing practice and occurs when an itinerary connecting at an intermediate city is less expensive than a ticket from the origin to the intermediate city. In such a case, passengers traveling to the intermediate city have an incentive to pretend to be traveling to the final destination, deplane at the connection point, and forgo the unused portion of the ticket. Hidden-city opportunities are not uncommon nowadays. *When the passenger skip the next leg of the flight, it can indeed create an opportunity for the airline to sell the empty seat at a premium price to last-minute travelers or those in urgent need of a flight.*

V. WHY HIDDEN CITY TICKETING EXISTS

In a H&S network, airlines carry their passengers from an origin to their hub, and then from the hub to a destination. It is suggested that for airlines with higher market power and more dominated at an airport, the airlines could charge a higher fare to its passengers, compared with others (Yuen, 2017). Hidden city ticketing is typically done to save money, as direct flights to certain destinations can be more expensive than flights with layovers. According to a study conducted by Hopper using big data, hidden city fares are observed in 26% of domestic routes searched by consumers and are on average 21% less in price than simply buying the same direct flight. The same study also shows that "hidden city fares are highly concentrated on major hub

⁷ Online travel communities and forums played a significant role in popularizing skiplagging. These platforms provided a forum for travelers to share tips, strategies, and success stories related to hidden city ticketing, thereby raising awareness and interest in the practice.

⁸ Airport World. March 6, 2023.

destinations spread across many origins: 47% of all hidden city routes fly to one of top 10 hubs” Hopper Research (2015).

Let's say you want to fly from Tuson (TSU) to Dallas/Fort Worth (DFW) by American Airlines, but the direct flight from TSU to DFW is expensive. There's far higher demand for flights to DFW, pushing fares up. For example, if a flight from TSU to DFW costs \$600, and a flight from TSU to Fargo (FAR) with a stop in DFW costs \$300, you could book the cheaper ticket to FAR and leave the airport when your plane lands in DFW. By doing this, you save money on your ticket.



Figure 1: Example of Hidden-City Ticketing

Why would American charge you less than half as much to fly more than twice as far? Well, because American knows that if you're going to fly from TSU to FAR, you'll want to do so nonstop, and are probably willing to pay for it. Meanwhile if you're connecting to DFW, there's more competition in that market, so pricing will reflect that.

VI. WHY ARE THERE DIFFERENT PRICING TO FLY TO AND FROM HUB

The majority of larger hub cities are often situated at crossroads of international air routes, making them convenient stopover points for connecting flights between continents. Major hub cities often serve as important business centers, and many Fortune 500 companies are headquartered or have significant operations in these cities. These companies may rely on the connectivity provided by airlines serving these airports for their business travel needs. Some hub cities are also major financial and commercial centers, attracting corporations from various industries. A good portion of passengers flying in and out of hub airports are business travelers with an inelastic demand. Inelastic demand implies that changes in price have a relatively small effect on the quantity demanded. Chicago is served by O'Hare International Airport (ORD), one

of the busiest airports globally. Chicago is a major business hub, particularly in industries such as finance, transportation, and manufacturing. Several Fortune 500 companies, including Boeing, United Airlines Holdings, and Archer Daniels Midland, are headquartered in the Chicago metropolitan area. At many large hub airports, such as those serving major business centers like Atlanta, New York City, London, or Tokyo, the primary demographic of travelers consists mainly of business travelers. These travelers typically prioritize convenience, efficiency, and time-saving measures, making non-stop flights highly desirable. Unlike leisure travelers who may be more sensitive to price fluctuations and willing to consider connecting flights to save money, business travelers often prioritize direct routes to minimize travel time and maximize productivity.

This means that even if airlines were to adjust ticket prices for non-stop flights, business travelers would still be willing to pay premium fares to secure direct routes due to the time-sensitive nature of their travel needs.

Flights to and from airport hubs often experience higher demand due to the monopoly of the airlines, convenience of connecting flights and the availability of more routes. Airlines may adjust prices based on demand and competition on these popular routes. Airlines may charge a premium for flights to and from their hubs due to concentration of business travelers, headquarters of Fortune 500 corporations, the convenience they offer to passengers connecting to other destinations. Hub airports typically offer a wide range of flight options and connections, making them desirable for travelers. Airlines may capitalize on this convenience by pricing their hub flights slightly higher.


Business travelers are typically characterized as time-sensitive travelers who prioritize convenience and efficiency in their travel arrangements over price considerations. Given their need for flexibility and promptness, they are less price-sensitive compared to leisure travelers. Therefore, airlines often adjust pricing strategies for flights catering to business travelers accordingly. This could result in higher ticket prices for flights to and from hubs, as airlines aim to capture the value perceived by business travelers in terms of time savings, lack of competition, market monopoly, schedule flexibility, and access to a wide network of destinations for connecting flights.

VII. CONCLUSIONS

Hidden city ticketing (HCT) exists primarily due to pricing disparities in the airline industry. Generally, passengers at airports dominated by big airlines tend to exhibit less price elasticity, meaning they are less sensitive to changes in ticket prices. This is often attributed to the limited competition and lack of alternative options available at these airports. With fewer airlines operating routes and offering flights, passengers have fewer choices and may feel compelled to accept the prices set by the dominant carriers. Additionally, passengers traveling for business purposes, especially those whose expenses are covered by their employers, are typically less price-sensitive and more willing to pay higher prices for the convenience, reliability, and amenities offered by established airlines. As a result, big businesses that dominate these airports can effectively set higher prices without experiencing a significant loss in demand.

Hidden city ticketing can offer a valuable opportunity for passengers with limited incomes to travel to their desired destinations more affordably and hence often plays a major role in driving consumer action. By taking advantage of pricing discrepancies and booking flights with layovers in their intended destinations, these passengers can often secure lower fares than they would with traditional booking methods, which provides a substantial justification for its existence.

Skiplagged's business and its providing of information relative to HCT can indeed provide passengers with a means to circumvent the monopoly positions that airlines often hold at certain hub airports. When airlines dominate a particular airport, they can wield significant pricing power, leading to higher fares and limited options for travelers. In such cases, hidden city ticketing helps passengers to bypass the high prices associated with direct flights to the hub airport's destination by booking flights with layovers at the hub. This provides a significant justification for its existence in the marketplace in my opinion.

Cr12

 Bijan Vasigh, Ph.D.
 April 23, 2024

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EXHIBIT A

BIJAN VASIGH, PHD

Curriculum Vitae

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ACADEMIC DEGREES:

- Ph.D., Economics, State University of New York at Binghamton. Specialization: Applied Economic, Finance, and Quantitative Methods.
- M.A., Economics, University of Detroit, Detroit, Michigan. Specialization: Financial Economics, and Mathematical Economics.

PRESENT APPOINTMENTS:

- Professor and Tenured: August 1998 - Present:
College of Business: Department of Economics, Finance and Accounting.
Embry-Riddle Aeronautical University, Daytona Beach, Florida.
- Founder and President, Aviation Consulting Group, LLC, Ormond Beach, FL. 2002 to Present).
- Fellow Airneth. Airneth is the worldwide scientific network for aviation research and policy, based in the Netherlands. Airneth is financed by the Netherlands Directorate-General for Civil Aviation and Maritime Affairs (2006 to present).
- Jet Perfect Foundation, member of the Board of Directors
- Amirate Aviation University, a Member of Technical Committee, International Aviation Management Conference (IAMC), 2024.



PAST APPOINTMENTS

- Visiting Professor, the University of the West Indies., St. Augustine, Trinidad. Faculty of Social Sciences, 2007 - 2015.
- Visiting Professor, Danube University Krems, Professional MBA Aviation, Krems, Austria. January 2015.
- August 1996-August 1998: Graduate Program Chair, Department of Business Administration, Embry -Riddle Aeronautical University.
- August 1993 - August 1998: Associate Professor, Department of Business Administration,

Embry-Riddle Aeronautical University.

- June 1990- July 1993: Assistant Professor, Department of Business Administration, Embry-Riddle Aeronautical University.
- July 1989- May 1990: Assistant Professor of Finance, Department of Finance, School of Business, Indiana University of Pennsylvania, Indiana, Pennsylvania.
- September 1985-December 1987: Chairman, Department of Business Administration, Webber College, Babson Park, Florida.
- August 1984-August 1985: Assistant Professor, Department of Business Administration, Webber College, Babson Park, Florida.

EXPERIENCE, RECENT CONSULTING:

- Evolink Law Group, Burnaby, British Columbia, Expert Witness, contract violation 2022-Present.
- Morgan ad Morgan, USA, Expert Witness, Copy right violation, 2023.
- Unmanned Aircraft Systems Gulf of Mexico Center of Excellence, Economic Impact Analysis: January-October 2021.
- Studies of Airport Slots at Brazilian Airport, with collaboration of PEZCO Consulting, February 2021.
- Evaluating the Traveler's Perspective to Improve the Airport Customer Experience. Airport Cooperative Research Program (ACRP), in collaboration with IOS Partners 2019.
- New Istanbul Airport Project, Economic Impact Analysis (Technical Memorandum), Cignus Consulting and Jeppesen Sanderson, 2019.
- Market forecasting and financial analysis for airborne satellite services, QB Technologies, 2018-19.
- Air Nostrum, Líneas Aéreas del Mediterráneo, S.A., is a regional airline based in Valencia, Spain. Representing the company to expand its market in another country (2017-18).
- Government of Pakistan, National Aviation Policy, A catalyst for nation's socio-economic well-being. Co-Principal Investigator, 2015.
- Turkish Airlines, Aviation Academy. Provide training and consultancy services to companies in the area of Airline Finance, Airline Revenue Management, and the Source and Use of Funds, 2015.
- Association of Unmanned Vehicle Systems International (AUVSI). The Economic Impact of

Unmanned Aircraft Systems in the United States. The study commissioned by *AUVSI* the trade group representing the unmanned systems and robotics, 2014.

- Savi Airlines, Special Advisor and Financial planner, Savi is a U.S. based Low Cost Airline with a unique market niche of serving the needs of Canadian travelers by offering lower cost, high value air travel and vacation packages to high demand U.S., Mexican and Caribbean destinations. (2012-Present).
- Piarco International Airport, Trinidad and Tobago (POS). Provided technical assistance on the airport efficiency study, 2013.
- Integra Click Corporation, Economic Impacts Integra Click on Sarasota County, Florida, 2012.
- Future Flyer Inc., Startup Aviation Company, Johannesburg, South Africa, 2012.
- United Nations, Department of Safety & Security (UNDSS). Performance and safety measurement of African Airlines, 2012.
- Piarco International Airport, Trinidad and Tobago (POS). Provided technical assistance on the land side facilities, 2012.
- The Republic of Trinidad and Tobago. As a member of the Prime Minister of Trinidad and Tobago Task Force, investigated the sale of seven British West Indies Airlines (BWIA) slots at Heathrow Airport, 2011-12.
- Law Office of Joseph E. Ching. Economic Impacts Analysis of the Restaurant Industry on New Orleans, 2011.
- Carney Williams, Bates Pulliam & Bowman, PLLC. Provided comprehensive analysis of airlines delay at several major European airports, 2011.
- Turkish Airlines, Turkey, Istanbul. Provided technical assistance on revenue management, 2011.
- Nature Airlines, based in San José, Costa Rica. Provided technical assistance on revenue management, 2011.
- Provided Technical Information and Assistance on Business Development and Regulatory Issues, Micro Motion Solution (MICROMO), Clearwater, FL, 2010.
- Provided Technical Information and Assistance on the Air Transport Industry' Weiss Multi-Strategy Advisors (2008).
- Air Malta, National Airlines of Malta. Provided technical assistance on cost-rebalancing and cost reduction strategies to Air Malta (2008).

- Provided Technical Assistance for Airport Improvements and Airspace Optimization in the Central Zone of Country of Chile (2007).
- Consultant for an airline's creditors, hired to analyze the possible deepening insolvency and violation of fiduciary responsibilities by the management (2006).
- American Airlines. Investigate the validity of a previous study distributed by Southwest Airlines and The Campbell-Hill Aviation Group. Southwest Airlines commissioned The Campbell-Hill Aviation Group in an effort to support its proposition that repeal of the Wright Amendment will result in lower airfares (2005).
- Kenny Nachwalter, P.A., provided a comprehensive strategic examination of U.S. airline industry and identify the factors affecting defunct airlines. The result of the report was used to defend a client airline in Federal Court. (2004-2005).
- Consultant for a Pittsburg based startup airlines (Direct Jet), hired to develop a multi-year strategic business plan aimed at finding potential partners and investors in the United States. (2002 to 2006).
- Consultant for a Florida Based air taxi company, hired to develop a business plan looking for capital investors to finance the commercialization of their service in the North American market. (2002 to present).
- Consultant with the International Civil Aviation Organization (ICAO); provided assistance on the evaluation of aeronautical charge structure for the Brazilian Institute of Civil Aviation (IAC).
- Worked on a NASA Research Grant, entitled, "Determination of Statewide Economics Impacts of the Small Aircraft Transportation System (SATS)." 2001 and 2003.
- Economic Feasibility Analysis of the Commercial Airline Pilot Training (CAPT) Program: Strategic- Economic Framework of Airline Qualification Training Program for a Florida based Flight School, 2003.

EXECUTIVE EDUCATION:

- Financial Analysis of Aircraft Leasing, Aeroclass, Customized aviation training solutions, August 28, 29, and 30, 2023.
- Financial Analysis of Aircraft Leasing, Aeroclass, Customized aviation training solutions, June 27, 28, and 29, 2023.
- Airline Pricing and Revenue Management, Turkish Airlines Academy, May 15-19, 2023.

- Airline Pricing and Revenue Management, Turkish Airlines Academy, June 23-26, 2022.
- Airline Pricing and Revenue Management, Turkish Airlines Academy, October 6-8, 2021.
- Innovating Financing Practices for Airline Managers. China Air Transport Association (CATA), December 16-20, 2019.
- Airline Revenue Management, International Air Transport Association (IATA), Montreal, Canada August 14-18, 2017.
- Airline Finance, Sun Express Airlines, Antalya, Turkey. December 11-15, 2016.
- Strategic Financial Management, International Air Transport Association (IATA), Singapore, June 22-26, 2015.
- Dynamic Pricing and Revenue Management, Embry-Riddle Aeronautical University (ERAU), Miami, Florida, April 2, 3 2015.
- Aircraft Leasing & Financing, Embry-Riddle Aeronautical University (ERAU), Miami, Florida, February 11-13, 2015.
- Airline Revenue Management, International Air Transport Association (IATA), Montreal, Canada October 14-17, 2014.
- Airline Financial Management, TAAG Angola Airlines, Lisbon, Portugal, August 4-8, 2014.
- Airline Revenue Management and Dynamic Pricing Policy, ERAU, College of Business, Miami, Florida, February 13-14, 2014.
- Airline Revenue Management and Dynamic Pricing Policy, IATA, Montreal, Canada, November 6-9, 2013.
- Airline Revenue Management, Airline Tariff Publishing Company, Dulles, VA. August 19-20, 2013.
- Strategic Finance, Executive Management Development Training, Pratt and Whitney, Beijing, China. July 23-24, 2013.
- Advanced Air Transportation Economics, University of West Indies, Trinidad, Port of Spain. June 3-7, 2013
- Airline Revenue Management, IATA- TALMA, Lima, Peru, May 12-17, 2013.
- Strategic Finance, Executive Management Development Training, Pratt and Whitney, Beijing, China. May 28, June 1, 2012.
- Strategic Financial Management, International Air Transport Association (IATA), Miami, Florida, May 9-17, 2012.
- Strategic Financial Management, International Air Transport Association (IATA), Miami,

Florida, May 10-16, 2011.

- Advanced Air Transportation Economics, University of West Indies, Trinidad, Port of Spain. May 23-29, 2011
- Strategic Financial Management, International Air Transport Association, Montreal, Quebec, May December 18, 2010.
- Dynamic Pricing Practices and Revenue Management, AeroPodium, Wyndham Hotel, Miami, Fl., September 30, 2010.
- Strategic Finance, Executive Management Development Training, Pratt and Whitney, Beijing, China. August 2-6, 2010.
- Strategic Financial Management, International Air Transport Association, Miami, Florida, May 23-29, 2010.
- Aviation Strategy & Aircraft Finance, Kuwait City, Kuwait. June 27, July 1, 2010.
- Advanced Air Transportation Economics, University of West Indies, Trinidad, Port of Spain. May 23-29, 2010.
- Airport Revenue Development, Singapore Aviation Academy (SAA), Singapore. June 8-12, 2009.
- Advanced Air Transportation Economics, University of West Indies, Trinidad, Port of Spain. May 23-29, 2009.
- Airline Finance and Accounting Management, International Air Transport Association, Miami, Florida. April 27- May 1, 2009.
- Airline Finance Management, Accounting Center for China Airline (ACCA), Beijing, China. December 15-19, 2008.
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- Airline Transport Industry: Challenges and Opportunities, for China Eastern Airlines, Pratt and Whitney, Hartford, CT. October 26, 27, 2008.
- Finance and Accounting Management, International Air Transport Association, Miami, Florida. August 18-22, 2008.
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- Airlines Cost Reduction Strategies, Arab Air Carrier Organization (AACO), Amman, Jordan. November 12-15, 2007.

- Airline Finance and Accounting Management, Abu-Dhabi Accountability Administration, IATA, Abu-Dhabi, United Arab Emirates. September 9-13, 2007.
- Airline Finance and Accounting Management, International Air Transport Association, Miami, Florida. August 20-24, 2007.
- Advanced Aviation Economics, University of West Indies, Trinidad, Port of Spain. March 17-24, 2007.
- Airline Finance and Accounting Management, International Air Transport Association, Singapore. December 11-15, 2006.
- Airline Finance and Accounting Management, International Air Transport Association, Miami, Florida. August 21-25, 2006.
- Airline Finance and Accounting Management, International Air Transport Association, Singapore. December 12-16, 2005.
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- Airline Finance and Accounting Management, International Air Transport Association, New Delhi, India. June 23-27, 2003.
- Airline Finance and Accounting Management, International Air Transport Association, Miami, Florida. June 24-28, 2002.
- Airline Finance and Accounting Management, International Air Transport Association, Beijing, China. November 19-23, 2001.
- Airline Finance and Accounting Management, International Air Transport Association, Geneva, Switzerland. October 22 – 26, 2001.
- Airline Finance and Accounting Management, International Air Transport Association, Miami, Florida. May 21-25, 2001.
- Airline Finance and Accounting Management, International Air Transport Association, Geneva, Switzerland. October 23 – 27, 2000.
- Operations Research, Executive Master of Business Administration (EMBA), Embry-Riddle Aeronautical University, 1999.

- Operations Research, Master of Technical Management, Grumman Corporation, Melbourne, Florida, January 1994- April 1994.
- Corporate Finance, Master of Technical Management Program, Lockheed Corporation, Kennedy Space Center, January 1993- April 1993.
- Managerial Accounting, Master of Technical Management, Grumman Corporation, Kennedy Space Center, January 1993- April 1993.
- Airline Operations Research, Master of Technical Management Program, Lockheed Corporation, Kennedy Space Center, July 1992 - October 1992.

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- Wolfgang Dupeyrat, Airport Privatization Strategies of the Member Countries of the Pacific Alliance. College of Business, Embry-Riddle Aeronautical University (Committee member, 2022-Present).
- Mohamed Badr, Air Cargo Solution and management. College of Business, Embry-Riddle Aeronautical University (Committee member 2022-Present).
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HONOR AND AWARDS:

- Joseph R. Martin, Distinguished Professor of Aviation Management. Embry-Riddle University, College of Business, 2017.
- Editor in Chief, Journal of Airline and Airport Management, 2017.
- Grant from National Science Council (NSC) in Taiwan, on International Cooperation Program, Kainan University, Taiwan, October 12, 2010.
- Outstanding Faculty Awards, College of Business Administration, Embry-Riddle Aeronautical University, 2006.
- Faculty Member of the Year Nominee, Fall 2005.

- Journal of Air Transportation, Sorenson Best Paper Award, 2005.
This award gives recognition to the author(s) with the best literary and scholarly contributions to the field of air transportation.
- Embry- Riddle University, Vice President's Funds for Development, 1999.
- Embry- Riddle University, Vice President's Funds for Development, 1996.
- Outstanding Faculty Awards, Department of Business Administration, Embry-Riddle Aeronautical University, 1995.
- Embry- Riddle University, Vice President's Funds for Development, 1995.
- Dissertation Fellowship Award, State University of New York, 1981-82.

EDITORIAL BOARDS:

- Journal of Transportation Management.
- Journal of Air Transportation.
- Transportation Journal.
- Journal of Airport Management (JAM).
- International Journal of Aviation Management (IJAM).
- The International Journal of Applied Management and Technology.
- Journal of Air Transport Studies.
- Revista de Literatura dos Transportes, The Review of Transportation Literature (RELIT).
- International Journal of Aviation Technology, Engineering and Management (IJATEM).

PRESENTATION AT NATIONAL AND INTERNATIONAL REFEREED CONFERENCES:

- The 4th International Aviation Management Conference (IAMC). The Future of Aviation: COVID-19 Pandemic and the Challenges (Keynote Speaker, and Presenter). Dubai, UAE. November 21-22, 2022.
- Global Financial Crisis and Performance of the Banking Industry: An Empirical Analysis. Co-authored with G. Rod Erfani from Transylvania University. The International Academic Conference on Management, Economics and Marketing in Vienna, Austria, in August 5-6, 2022.
- The Keynote Speaker, International Congress on Aviation Management, Istanbul Turkey,

December 10-11, 2021.

- The Keynote Speaker, the 5th International Aviation Management Conference (INTAVIC). The Economics of Disruptive Technology, Ankara-Turkey, November 18-19, 2021.
- The economics of unmanned aircraft system under deregulation market environment", Forum Global Conference, November 4-7, 2020.
- The mitigating human errors in aviation accidents and incidents. The 23rd Air Transport Research Society (ATRS) World Conference, Amsterdam, the Netherlands, July 2- 5, 2019.
- Methodologies and techniques for determining the value of an aircraft. The 14th International Academic Conference, Prague, Czech Republic, April 19 - 21, 2019.
- The Impact of training in reducing aviation accidents. The 27th International Conference on Innovations in Business, Economics, Management, Social Sciences. The Kuala Lumpur, Malaysia December 17-18, 2018.
- Aircraft Value: Under Operating Cost Shocks. The 22nd ATRS World Conference, Seoul, Republic of Korea, July 2- 8, 2018.
- Airline industry: Challenges and Chances of Legacy Airlines. International Academic Conference on Management, Economics and Marketing, Budapest March 16 - 17, 2018.
- The Impact of the Global Financial Crisis on Profitability of the Banking Industry: A Comparative Analysis. International Academic Conference on Management, Economics and Marketing, Budapest March 16 - 17, 2018.
- Full service vs. low-cost airlines: Are the business practices converging overtime. The 21st ATRS World Conference, Antwerp, Belgium, July 5 - 8, 2017.
Demand for unmanned aircraft: Challenges, opportunities and operational restrictions. Western Regional Science Association, Santa Fe, New Mexico, February 15–18, 2017.
- Unmanned Aircraft Systems: Opportunities, Obstacles and Growth. The 20th ATRS World Conference, Rhodes, Greece June 23-26, 2016.
- Financial crisis and banking sector: A comparative analysis. International Atlantic Economic Conference, Lisbon, Portugal, March 16-19, 2016.
- Gerson Lehrman Group (GLG) Webcast, Air Transport Economics, Outlook for 2016, February 26, 2016.
- The impact of the global financial crisis on financial performance of Islamic banks. G. Rod Erfani, Transylvania University, and Bijan Vasigh. At 79th International Atlantic Economic Conference,

Milan, Italy, 11-14 March 2015.

- Sustainable Airline Management. Panel Chair, special panel on sustainability and aviation. Trakya Üniversitesi. Edrine. Turkey, September 23-26, 2014.
- Impact of Bird Strikes on Aircraft Operation and Prevention Methods Case Study. Presented at 16th Air Transport Research Society Conference, Bordeaux, France. July 17-20, 2014.
- The Determinants of the World Price of Crude Oil: An Empirical Analysis, International conference of Institute for Advanced International Studies; Laval University, Quebec, Canada. November 20-23, 2013.
- Comparison of Multilateration system (MLAT) with Secondary surveillance system (SSR) Case study: SDG, CQD and IIL airports, with M. Saffarzadeh and S. Bagheri. Presented at 17th International Air Transport Research Society Conference, Bergamo, Italy. June 26-30, 2013.
- Quality of Service Index Factors and Passenger Perspective, with I. Kovacic and R. Babic. Presented at 17th International Air Transport Research Society Conference, Bergamo, Italy. June 26-30, 2013.
- Value of Slots at London Heathrow Airport, Presented at 16th Air Transport Research Society Conference, Tainan, Taiwan. June 26-30, 2012.
- Assessing the Current State of Air Cargo, AFCA - Aircraft Finance & Commercial Aviation Conference, Barcelona, Spain. April 23-26, 2012.
- Financing the Future Transportation System, 53RD Annual Transportation Research Forum, Tampa, Florida. March 14-16, 2012.
- Government Failure, Market Failure and Public Interest: An Assessment of Airport Governance Policies with a Stakeholder Perspective. Presented at 15th Air Transport Research Society (ATRS) Conference, Sydney, Australia. June 29- July 1, 2011.
- The Economic Impact of Privative Institutions, presented at International Conference on Operation Research and Statistics, Penang, Malaysia, April 5-7, 2011.
- Privatization and Regulation; A Review of Airport Industry, 14th Global Business Development International Conference, Las Vegas, Nevada, March 20-23, 2011.
- Methods and Strategies in Commercial Aircraft Valuation. The 14th Air Transport Research Society World Conference. Porto, Portugal, July 6-9, 2010.
- Dynamic Changes of the Air Transport Industry. Aviation Information Technology in Engineering and Management (AITEM), New Orleans, Louisiana. March 22-24, 2010.
- Public Ownership and Private Operation: A Case of Commercial Airports. The International

Conference on Economics and Administration (ICEA-FAA). University of Bucharest, Romania. November 14-15, 2009.

- Determination of Statewide Economic Benefits of Civil and Commercial Airports in Arizona, Thirteenth Air Transport Research Society World Conference, Abu Dhabi, United Arab Emirates, June 27-30, 2009.
- Air Transport Liberalization: Challenges and Opportunities, International Business Economic Research Conference, Las Vegas, Nevada. September 29-October 2, 2008.
- "Statistical Analysis of Aging Aircraft, Region of the World and Airline Accidents" Presented at 12th Air Transport Research Society (ATRS) Conference, Athens, Greece. July 6-10, 2008.
- "The Maquiladora Industry: Recent Downturn and Future Prospects" International Applied Business Research Conference, San Juan, Puerto Rico. March 17-20, 2008.
- "An Empirical Investigation of the Relationship Between Market Conditions and Value of Commercial Aircraft," Presented at 11th Air Transport Research Society (ATRS) Conference, University of California, Berkeley. June 21-23, 2007.
- "Statistical Methodology to Assess Correlation Between Aircraft Safety, Age and International Regulation," Presented at the 10th Joint DoD/NASA/FAA Conference on Aging Aircraft Conference, Palm Springs, California. April 16-19, 2007.
- "The Methodology of Bank Valuation." Co-authored with R. Hamzaee, Presented at the 63rd International Atlantic Economic Conference, Madrid, Spain. March 14-18 2007.
- "Asset Valuation in Dynamic Markets." A Discounted Cash Flow Approach, third Annual Meeting of Applied Business and Entrepreneurship Association International, Waikoloa Beach Resort, Kona Island, Hawaii. November 16-20, 2006.
- "Statistical Analysis of Airline Safety." 69th Annual Meeting of the Institute of Mathematical Statistics, and the 5th International Symposium on Probability and its Applications, Rio de Janeiro. Brazil July 30–August 2, 2006.
- "Corporate Responsibility, Finance and Aviation Safety: Empirical Evidence." Presented at 10th Air Transport Research Society (ATRS) Conference, Nagoya, Japan. May 26-28, 2006.
- "An Application of Total Factor Productivity (TFP) to Measure the Efficiency of Commercial Airports" International Applied Business Research Conference, Cancun, Mexico. March 20-24, 2006.
- "Economic Impact of Institutions of Higher Education on Local Economy." Presented at 45th

Annual Meeting of Western Regional Science Association, Santa Fe, New Mexico. February 22-25, 2006.

- "A Collective Airport Airline Efficiency Strategic Model." With R. G. Hamzaee, presented at 9th Air Transport Research Society (ATRS) World Conference, Rio de Janeiro, Brazil. July 3-6, 2005.
- "Foreign Direct Investment and Economic Growth." With G. Rod Erfani, Presented at 14th Annual Congress of Global Awareness Society International, Rome, Italy. May 27-29, 2005.
- "A Productivity Analysis of U.S. Regional and Major Airlines." Presented at 44th Annual Meeting of Western Regional Science Association, San Diego, CA. February 23-26, 2005.
- "Globalization, Foreign Direct Investment and Privatization." With Mehdi Haririan, G. Rod Erfani, Presented at Second annual Conference of Association for Global Business and Social Sciences, Cancun, Mexico. November 18-21, 2004.
- "Airport Privatization: Issues for the Western Europe," With G. Rod Erfani, presented at 3rd Annual Conference of European Economics and Finance Society, Gdansk, Poland. May 13 - 16, 2004.
- "*Economic Impact of the Small Aircraft Transportation System (SATS)*" presented at 57th Annual Conference of International Atlantic Economic Conference, Lisbon, Portugal. March 10-14, 2004.
- "*Efficiency, Productivity and Scope of Operation: A Case Study on US Commercial Airports.*" Presented at Aviation in the 21st Century, Organized by National Aviation University, Kyiv, Ukraine. September 14-16, 2003.
- "An Evaluation of Commercial Airline Safety: *Assessment of Major, National and Regional Airlines Safety.*" With Rod Erfani, and F. Halldorsson, presented at the 7th Annual Conference of Air Transportation Research Society, Toulouse, France. July 10 - 12, 2003.
- "*Sensitivity of Student Enrollment with Respect to Tuition.*" With R. Hamzaee, presented at 55th Annual Conference of International Atlantic Economic Conference, Vienna, Austria. March 12-16, 2003.
- "A DEA Approach to Study the Size and Efficiency of U.S. Commercial Airports." With Massoud Bazargan presented at the 6th Annual Conference of Air Transportation Research Seattle. Washington, July 12-18, 2002.
- "An Analytical Approach to Aviation Safety." With R. ERFANI, and M. Haririan, presented at 53rd Annual Conference of International Atlantic Economic Conference, Paris, France. March

12, 17, 2002.

- "Testing Sensitivity of Student Enrollment with Respect to Tuition at Institution of Higher Education." Presented at the 40th Conference of Western Regional Science Association Conference, Monterey, CA. February 17-20, 2002.
- "An Empirical Analysis of Financial and operational efficiency of Privatized Airports." With Mehdi Haririan, presented at the 5th Annual Conference of Air Transportation Research Group, Jeju Island, Korea. July 19-22, 2001.
- "Effects of Marketization and Privatization on Investment and Saving," With M. Haririan, Rod Erfani, presented at 51st Annual Conference of International Atlantic Economic Conference, Athens, Greece. March 13-20, 2001.
- "Financial and Operational Performances of the U.S. Major Hub Airports," With R. Hamzaee, the 40th Conference of Western Regional Science Association Conference, Palm Springs, California. February 25 - 28, 2001.
- "Airport Efficiency: An Empirical Analysis of the US Commercial Airports," Presented at the 4th Annual Conference of Air Transport Research Group, Amsterdam, the Netherlands. July 2nd-5th, 2000.
- A Comparative Analysis of Regional Airline Safety in the New Regulatory Environment Presented at the 49th Annual Conference of International Atlantic Economic Association, Munich, Germany. March 16-23, 2000.
- "A Revenue Cost Perspective to U.S. Airport Operations," With R. Hamzaee, Presented at the 39th Annual Meeting of the Western Regional Science Association Conference, Kauai, Hawaii. February 26-28, 2000.
- "Financial Distress and Pricing Behavior in the Airline Industry," Presented at the 47th Annual Conference of International Atlantic Economic Association, Vienna, Austria. March 16-23, 1999.
- "An Empirical Analysis of Airline Safety: The Case of Regional Airlines," Presented at the 38th Annual Meeting of the Western Regional Science Association Conference, Ojai, CA. February 18-22, 1999.
- "The Economic Impact of Commercial Airports on the Local Economy," Presented at the 45th North American Meetings Regional Science Association International, Santa Fe, New Mexico. November 11-14, 1998.
- "Airline Safety: Prospect and Retrospect," With M. Haririan, Presented at the Forty-Fifth

Annual Conference of International Atlantic Economic Association, Rome, Italy. March 15-22, 1998.

- "The U.S. Airline Industry: How Are the Low Cost Air Carriers Doing?" With M. Haririan, Presented at the 37th Annual Meeting of the Western Regional Science Association Conference, Monterey, CA. February 18-22, 1998.
- "Non-Oil Export Promotion," With M. Haririan, Presented at the 67th Annual Meeting of the Southern Economic Association, Atlanta, Georgia. November 21-23, 1997.
- "The Impact of Airport Use Agreement on Airport Profitability and Efficiency," Bijan Vasigh, and M. Haririan, Presented at the 39th Annual Meeting of the Transportation Research Forum, Montreal, Canada. October 16-18, 1997.
- "Privatization and Public Choice in Education," Presented at the 22nd Annual Convention of Eastern Economic Association, Washington, D.C. April 3-6, 1997.
- "An Application of Probabilistic Inventory Analysis: A case of Airline Industry," Presented at the 36th Annual Meeting of the Western Regional Science Association Conference, Big Island, Hawaii, February 23-27, 1997.
- "Pattern of Transition," with M. Haririan, Presented at the 66th Annual Conference of Southern Economic Association, Washington, DC. November 23-25, 1996.
- "The Economic Impact of Privatization: The Case of Air Carrier Airports," Presented at the 35th Annual Meeting of Western Science Association Conference, Napa, California. February 25-29, 1996.
- "Impact of Airport User Charge Strategies on Airport Productivity," Presented at the 65th Annual Convention of Southern Economic Association, New Orleans, Louisiana. November 18-20, 1995.
- "Airline's Reservation Strategies." With R. Hamzaee, Presented at the 21st Annual Convention of Eastern Economic Association, New York City, New York. March 17-19, 1995.
- "Airport Privatization: A Simple Welfare Analysis." With M. Haririan, Presented at the Western Regional Science Association Conference, San Diego, California. February 22-25, 1995.
- "Airport Privatization and the Pricing of Airport Services." With Tom Tacker, and Ken Fleming, Presented at the 64th Annual Conference of Southern Economic Association, Lake Buene Vista, Florida, November 20-22, 1994.
- "Start-Up Airlines: A Counter-Cyclical Phenomenon." With A. Harraf, Presented at Thirty-Sixth Annual Transportation Research Forum Conference, Daytona Beach, Florida, November 3-5,

1994.

- "Interaction Between Traditional and Nontraditional Approach to Airport Financing." by Bijan Vasigh, M. Haririan, and A. Harraf, Presented at Thirty-Eight International Atlantic Economic Conference, Montreal, Canada. October 6-9, 1994.
- "Resurgence of New Airlines: Healthy Deregulation or Deja Vu All Over Again." With A. Harraf, the 20th Annual Convention of the Eastern Economic Association, Boston, Massachusetts. March 18-20, 1994.
- "Airline Seat Inventory Management." The 63rd Annual of the Southern Economic Association, New Orleans, Louisiana. November 21-23, 1993.
- "Airport Privatization: Procedures and Methods." With M. Haririan, the Sixty-Eight Annual Conference of Western Economic Association, Lake Tahoe, Nevada. June 20-24, 1993.
- "Aircraft Leasing Companies: What is the Future?" With H. Malden, the 35th Annual Conference of Western Social Science Association, Corpus Christie, Texas. April 21-24, 1993.
- "Privatization: The Challenge of the 1990's In Eastern Europe." With M. Haririan, the Sixty Second Annual Conference of the Southern Economic Association Conference, Washington, D.C. November 22-24, 1992.
- "The U.S. Airline Industry: An Empirical Analysis of the Decision to Buy or Lease Aircraft." by Bijan Vasigh, Hoyt Maulden, and Linda Block, the 34th Annual Conference of the Western Social Science Association, Denver, Colorado, April 22-25, 1992.
- "Issues and Problems in Airport Privatization." With M. Haririan, the Eighteenth Annual Conference of the Eastern Economic Association, New York, N.Y. March 27-29, 1992.
- "Estimating Lost Future Earnings Capacity: When the Individual Has no Earnings History." The Sixty First Annual Conference of Southern Economic Association, Nashville, Tennessee, November 24-26, 1991.
- "The Impact of the Energy Crisis on the Airline Industry." The Seventeenth Annual Conference of the Eastern Economic Association, Pittsburgh, Pennsylvania, March 15-17, 1991.
- "An Alternative Approach to Annuity Analysis: A Case of Stock Pricing Model." the Thirtieth International Atlantic Economic Conference, Williamsburg, Virginia, October 11-14, 1990.
- "The Total Offset Method in Present Value Calculation: A Review, a Criticism, and Recommendation." Conference of the Southern Economic Association, Orlando, Florida, November 1989.

- "An International Comparison of Wages and Prices." the conference of Western Economic Association, Lake Tahoe, June 1989.
- "The World Oil Market and western Dependence on OPEC." the Conference of the Eastern Economic Association. Baltimore, Maryland. March 1989.
- "Gasoline Price and the Demand for Automobile." the Eastern Economic Association Conference, New York, NY. March 1984.

INVITED GOVERNMENT/INDUSTRY/ACADEMIC PRESENTATIONS:

- Federal Bureau of Investigation (FBI). 2019 Air Carrier Security Directors (ACSD) Forum. Orlando, Florida, August 6-7, 2019.
- China Air Transport Association (CATA). Air transport financial Management. Beijing, China. November 20-24, 2017.
- Federal Aviation Administration and Transportation Research Board. Future of Unmanned Aircraft Systems, National Academies of Sciences, Washington, D.C. October 25-26, 2016.
- The 3rd International Civil Aviation Organization (ICAO), Air Transport Symposium (IATS). Aviation specific safeguards for competition, Montreal, Canada, March 30-31, 2016.
- American International Group (AIG) Client Summit, Unmanned Aircraft Systems (UAS) – Ready for Take Off, JW Marriott Scottsdale Camelback Inn, Phoenix, Arizona. October 20, 2015.
- Association of South Pacific Airlines (ASPA), Dynamic Pricing and Airline Revenue Management, Nadi, Fiji, June 10-14, 2015.
- Vietnam Airlines, Airline Pricing Structure, Hanoi, Vietnam, June 6-10, 2015.
- Second International Civil Aviation Organization (ICAO) Air Transport Symposium, the Impact of Levies on Air Transport Sustainability. ICAO Headquarters, Montréal, Canada. May 7-8, 2014.
- IATS 2014 Benchmarking Made Easy, AAAE/Southeast Chapter, Airport Finance and Administration Conference, Orlando Florida, January 26-28, 2014.
- Asia Pacific market sees stronger growth in low-cost airlines, Kainan University, Taoyuan, Taiwan, December 10-12, 2013.
- The Future Prospects of the Air Transport Industry within the Context of the Turbulent Economic Times, *Small Hotels & Business Development Conference*, United States Virgin Island, St. Thomas.

November 12-17, 2013.

- Legacy Airlines: The Fight for Survival, Tainan University of Technology, Tainan, Taiwan, December 8, 2013.
- Future of Regional Aircraft "*Airline Engine and Maintenance Conference*," San Francisco, CA., October 30 to November 1, 2012.
- Strategies and Tools for Sustainable Air Transport, ICAO Air Transport Symposium, Montréal, April 18 – 20, 2012.
- Considering the impact that the introduction of new aircraft will have on the residual value of existing fleets, "*Airline Engine, Finance and Leasing Conference*," Las Vegas, Nevada, October 1, 2012.
- Raising yields with optimal revenue management and pricing strategies, "*Low Cost Airlines World Conference*." Miami, Florida, May 3-4, 2011.
- Airline Revenue management, "*Seminar on Aircraft Repossession Summit*," Wyndham Miami Airport, June 24, 2010.
- Dynamic Changes of the Air Transport Market and Airline Networks of ASEAN and India: Strategic Challenges for the Proposed "New Airport in Southeastern Korea". Seoul, Korea, December 8-10, 2009.
- Aviation Industry: Challenges and Opportunities. CENTRA, Arlington, VA, August 7, 2009.
- Airport privatization in Latin America, Conferência Internacional Sobre Capital Privado em Aeroportos, FIESP-CIESP, Sao Paulo, Brazil April 22-23, 2009.
- Airport Ownership and Performance at the *Airport Economics and Finance Symposium*, Department of Transport Studies, University of Westminster, March 30 – April 4, 2009.
- Future Prospects of Air Transport Industry. Transportation Research Forum, 50th Annual Conference, Portland, Oregon, March 15-18, 2009.
- Financial and Operational Efficiency of Private and Public Airports. CIBER Multidisciplinary Research Workshop. College of Business, University of Florida, Gainesville, Florida, February 13, 2009.
- Latin American Air Transport Industry: Challenges and Opportunities. 12th Annual Latin America and Caribbean Airline Engineering & maintenance, Miami, FL, November 11-12, 2008.
- Negotiating Strategies for Creating a Liberalized Air Transport Bloc in Northeast ASIA. The Korea Transport Institute and East West Center (KOTI-EWC) Conference, Honolulu, Hawaii,

August 15-16, 2008.

- The Airline Industry: Opportunities and Challenges, the International Aviation Credit Group, Ft Lauderdale, FL., March 14, 2008.
- Airport Privatization in Latin America, the Seventeenth Airport Council International (ACI), World Annual General Assembly, Buenos Aires, Argentina, November 4-7, 2007.
- The Aviation Industry Strategies in the First Decade of the Twenty-First Century, Taiwan Air Transportation Symposium, Taipei, Taiwan, June 2-3, 2006.
- An Economic Framework for Airport Productivity, Speaker and Panelist, the 12th Annual Global Airport Development Forum (AGD), Paris 15-18, 2005.
- Future of Start-up and Low-Cost Airlines, the Conference of Air Transport Industry in the next Millennium, *Tehran*, Iran August 29-30, 2005.
- "Analyzing the Advantages/Disadvantages of Different Debt Restructuring Options Applicable to the Airlines" A chairman, speaker and panelist, Aircraft Finance & Commercial Aviation 2004, Geneva, *Switzerland* 24-27 Feb 2004.
- "Cost Benefit of Air Safety," speaker and panelist, The Eight Annual MRO Regulations, Quality & Safety Conference, London, *England*. 17 October 2001.
- "Aircraft Quality and safety," speaker and panelist, Seventh Annual Aircraft Quality and Safety Conformance, Brussels, *Belgium*. September 12-15, 2000.
- "Privatization of Airports and Airport Functions," speaker and panelist, the Thirty-Fourth Annual Airport Management Short Course Seminar, Sponsored by Arizona State University and Southwest Chapter American Association of Airport Executives (AAAE), Monterey, California, January 5-7, 1994.

GRANTS:

- Evaluating the Traveler's Perspective to Improve the Airport Customer Experience. Airport Cooperative Research Program (ACRP 01-40), \$500,000, 2019.
- QB Technologies Competitor Analysis, QB Technology Partners, LLC. \$25,000, 2018.
- Evaluation of the New Security Rules for Cargo on Inbound Flights. Faculty Development Funds, ERAU, 2010.
- Determination of Statewide Economic Benefits of Civil Aviation in Arizona. Faculty Development Funds, ERAU, 2010.

- Government of Korea, Dynamic Changes of the Air Transport Market and Airline Networks of ASEAN and India: Strategic Challenges for the Proposed "New Airport in Southeastern Korea". 2009 KFP International Conference on Korea's New Engines of Growth: Airlines and Maritime Logistics Services, Seoul, Korea, December 8-10, 2009.
- The Center for International Business Education and Research (Vietnam FDIB 2009), the Global Research/Curriculum Development Program, Ho Chi Minh City, January 04-09 and Hanoi, January 9-14, 2009.
- Co-Principal Investigator, Aircraft Valuation in Dynamic Air Transport Industry, Office of Vice President for Research and Federal Programs, ERAU, \$5,714, 2008.
- Co- Principal Investigator. Technical Assistance for Airport Improvements and Airspace Optimization in the Central Zone of Chile (2006-2007). A United States Trade and Development (USTDA) grant that was awarded to Embry Riddle University. The project involved a detailed econometric analysis of the demand for air travel in Chile and the requirements for air space and airport updates to accommodate any increase in demand, \$375,000.
- "Florida Department of Transportation (FDOT), Small Aircraft Transportation System (SATS): Economic Impacts Analysis, \$25,000, 2005-2006.
- "Strategic- Economic Framework of Airline Qualification Training Program." Sponsored by ERAU, the office of Aviation and Space Technology Academy (ASTA), January-April 2002, \$15,000.
- Embry-Riddle Aeronautical University, The Office of Institutional Research, July-August 2001,
"Testing Sensitivity of Student Enrollment with Respect to Tuition Increase."
- Associate Provost for Graduate Programs and Research, March 2000: "Airport Operating Performance: Importance of Measuring Airport Efficiency." \$5000.
- Dean of Graduate Programs and Research, summer of 1999, "A Statistical Model of Airline Safety," \$2,000.
- Vice President's Funds for Professional Development, spring, 1999, "Financial Distress and Pricing Behavior in U.S. Airline Industry," \$2500.
- Vice President's Funds for Professional Development, Spring of 1997, \$2190.

EDITORIAL WORK ON BOOKS:

- *Managerial Economics: Foundations of Business Analysis and Strategy*, 11th edition, by Christopher R. Thomas and S. Charles Maurice, McGraw-Hill/Irwin, 2012.
- *Managerial Economics: Foundations of Business Analysis and Strategy*, 10th edition, by Christopher R. Thomas and S. Charles Maurice, McGraw-Hill/Irwin, 2010.
- *Airline Finance*, P. Morrell, Ashgate Publishing Limited, 3rd Edition. *Transportation Journal*, Volume 47 (2), Spring 2008.
- *Managerial Economics*, W. Boyes, Houghton Mifflin Company, Second Edition, 2008.
- *Managerial Economics*, Applications, Strategy, and Tactics, J. McGuigan, C. Moyer, and F. Harris, South-Western, 11th Edition 2006.
- *Macroeconomics*, R. Barro, Thomson/South-Western College Publishing, Sixth Edition 2005.
- *Introduction to Management Science*, Bernard W. Taylor Prentice Hall, 7th Edition, 2004.
- *Managerial Economics*, 8th Edition, Truett and Truett, John Wiley & Sons, Inc, 2003.
- *Introduction to Management Science*, 6th edition, Taylor, Prentice Hall Publishing Company, 2000.
- *Operations Management for the Twenty-First Century*, Michael Showalter, M. Brusco, and D. Cradit, Addison Wesley Longman Publishing Company, 1998.
- *Economics*, Byrns and Stone, Addison Wesley Longman Publishing company, 1997.
- *Managerial Economics*, McCormick, Prentice Hall Publishing Company, 1993.

TECHNICAL REPORTS:

- Airport Benchmarking Report: Global Standards for Airport Excellence, 2008. Volumes 1, 2 and 3, Air Transport Research Society Benchmarking Team.
- Airport Benchmarking Report: Global Standards for Airport Excellence, 2007. Volumes 1, 2 and 3, the report produced by Air Transport Research Society Benchmarking Team.

ACADEMIC AFFILIATION AND SERVICES:

- Senate member of Executive Committee, Embry Riddle Senator, 2023
- Embry Riddle Senator, 2021-2022
- University Grievance Committee.
- Dean of Graduate Program Research Fund Awards: A member of proposal Evaluation Committee.
- Dean of Graduate Program Research Fund Awards: A member of proposal evaluation committee.
- Dean of Graduate Program Search Committee.
- University Promotion and Evaluation Committee.
- University Research Committee.
- Faculty Search Committee
- Chair, Thesis and Research Committee.
- Undergraduate Curriculum Committee.
- Graduate Committee.
- University Library Committee, Chairman, Webber College, Expanded Library collection during chairmanship, developed computer-based retrieval system.

UNIVERSITY SERVICES:

- Coordinator of MBAA Colloquium, invite nationally and internationally recognized speakers to attend and deliver speeches at the College of Business Administration Colloquiums. The colloquium provides our students with opportunities to interact with the leaders of the aviation industry, 1992-2008.

PROFESSIONAL AFFILIATION:

- Honorary member of "The Brazilian Institute of Strategic Studies and Public Policies in Air Transport."
- Air Transport Research Society (ATRS):
- Board of Advisors, Applied Business and Entrepreneurship Association International (ABEAI).
- Western Regional Science Association (WRSA).
- The Airline Group of the International Federation of Operational Research Societies,

AGIFORS (1999-2003).

- American Association of Airport Executives, Academic Member (1999-2002).
- Eastern Economic Association, Area Representative (1989-1997).

COURSES TAUGHT:

- Advanced Aviation Economics
- Corporate Finance
- Engineering Economics
- International Finance
- Operations Research
- Operations Management
- Managerial Economics
- Managerial Accounting

Bill Kirkman

From: bijan vasigh <bijan.vasigh@gmail.com>
Sent: Wednesday, February 21, 2024 9:28 AM
To: Bill Kirkman
Subject: Follow-up: February 21, 2024

Dear Mr. Kirkman:

I wanted to inform you that I have received the following five files related to the case.

1. Master File No. 96-74711
2. Master File no. 1:90-cv-2485
3. Case No. 96-74711
4. American Airlines v. Skiplagged
5. Appendix I. Federal Rules of Civil

Thank you for providing them promptly.

To ensure I focus on the most pertinent aspects of the case, could you please specify if there are particular points or documents within the files that require immediate attention? Additionally, if there are any specific instructions or priorities you'd like me to consider while reviewing the materials, please let me know.

I'll begin reviewing the files promptly and await your guidance on how to proceed.

Thank you for the opportunity to assist with your case.

Best regards,

Bijan

EXHIBIT B

Materials Presented to and Reviewed by Dr. Bijan Vasigh, Professor

1. *Declarations of Aktarar Zamen*, dated October 22, 2023 and December 15, 2023
2. *First Amended Complaint of American Airlines*, filed August 17, 2023
3. *Hidden City travel and its impact on airfare*, February 2022
<https://www.sciencedirect.com/science/article/abs/pii/S0191261521002290>
4. *American Airlines Suing Skiplagged*, September 4, 2023 (Video)
https://www.2news.com/news/american-airlines-suing-skiplagged/video_22c7ac7b-f3a9-5cbf-9efb-b4f629005c2a.html
5. *American Airlines barred a 17-year-old from flying with the airline for 3 years because he tried to use a 'skiplagging' ticket, the teen's father says*, July 17, 2023
<https://www.insider.com/skiplagging-american-airlines-banned-teenager-hidden-city-ticket-canceled-2023-7>
6. *Judge throws out United Airlines lawsuit against 22-year-old*, May 1, 2015
<https://money.cnn.com/2015/05/01/investing/united-airlines-lawsuit-skiplagged/index.html>
7. *What is skiplagging? Everything about the controversial air travel hack airlines hate*, July 23, 2023
<https://www.usatoday.com/story/travel/airline-news/2023/07/23/what-is-skiplagging-hidden-city-ticketing/70438246007/>
8. *What is 'skiplagging' and why do the airlines hate when you do it?* August 23, 2023
<https://www.npr.org/2023/08/23/1194998452/skiplagging-airfare-flying-skiplagged-american-airlines>
9. *American Airlines sues a travel site to crack down on consumers who use this trick to save money*, August 18, 2023
<https://apnews.com/article/american-airlines-lawsuit-skiplagging-tickets-905acda8ac5fe302238cefd63ac864e3>
10. *What is skiplagging? All about the travel hack airlines hate*. July 14, 2023

<https://www.washingtonpost.com/travel/tips/skiplagging-flights-airlines-policy/>

11. *American Airlines is suing Skiplagged, accusing the travel site of being a 'classic bait and switch', August 17, 2023*
<https://www.businessinsider.com/american-airlines-sues-skiplagged-deception-fares-copyright-infringement-2023-8>
12. *Whether You Call It 'Skiplagging' or 'Hidden-City Travel,' It's Contentious, September 9, 2023*
<https://www.nytimes.com/2023/08/08/travel/skiplagging-hidden-city-travel-layover.html>
13. *American Airlines sues travel website Skiplagged over ticket price 'loophole', August 19, 2023*
<https://www.theguardian.com/business/2023/aug/19/american-airlines-sues-skiplagged-ticket-price-loophole>
14. *Skiplagging Isn't Likely to Stop Anytime Soon, Even if Airlines Fight It, September 5, 2023*
<https://www.phocuswire.com/american-airlines-skiplagging-airfares-united-airlines>
15. *American Airlines Sues Skiplagged, August 30, 2023*
<https://www.nerdwallet.com/article/travel/american-airlines-sues-skiplagged>
16. *Why American Airlines Is Suing A Popular Website That Finds Cheap Airfares, August 22, 2023*
<https://www.forbes.com/sites/suzannerowankelleher/2023/08/22/american-airlines-lawsuit-skiplagged/?sh=1dbde3f93a5e>
17. *American Airlines Sues Airfare Site Skiplagged, August 20, 2023*
<https://onemileatatime.com/news/american-airlines-sues-skiplagged/>
18. *American Airlines files lawsuit against Skiplagged, August 22, 2023*
<https://www.goodmorningamerica.com/travel/story/american-airlines-files-lawsuit-skiplagged-102422969>

19. *American Airlines sues skiplagging site, claiming it tricks passengers*, August 21, 2023
<https://www.washingtonpost.com/nation/2023/08/21/american-airlines-skiplagged-lawsuit/>
20. *What to know about skiplagging, the controversial tactic to save money on flights*, August 21, 2023
<https://www.today.com/life/travel/skiplagging-explainer-rcna100923>
21. *American Airlines Sues Skiplagged, Alleging False Savings Promises and Deceptive Practices*, August 24, 2023
<https://skift.com/2023/08/24/american-airlines-sues-skiplagged-alleging-false-savings-promises-and-deceptive-practices/>
22. *American Airlines Becomes Latest Airline To Sue Skiplagged*, August 19, 2024
<https://simpleflying.com/american-airlines-skiplagged-lawsuit/>
23. *American Airlines Becomes Latest Airline To Sue Skiplagged*, January 11, 2024
<https://www.nerdwallet.com/article/travel/skiplagged-flights-guide>
24. *5th Circuit Calls Out Judge's Sanction as Abuse of Discretion, Again*, November 7, 2023
<https://www.law.com/nationallawjournal/2023/11/07/5th-circuit-calls-out-judges-sanction-against-lawyer-as-abuse-of-discretion-again/?slreturn=20240322155412>
25. *Skiplagging: Why some flyers love it and why airlines hate it*, November 24, 2023
<https://www.cnn.com/travel/skiplagging-hidden-city-explainer/index.html>
26. *Don't persecute skiplaggers*, November 22, 2023
<https://www.dallasnews.com/opinion/editorials/2023/11/22/airlines-stop-persecuting-skiplaggers/>

EXHIBIT C

From	To	Date	departure time
New Orleans	Dallas	7-Mar	7.00am
Tuscon	Dallas	7-Mar	6.15am
Denver	Dallas	7-Mar	7.17am
Nashville	Dallas	7-Mar	8.00am
Las Vegas	Dallas	7-Mar	6.45am
Austin	Dallas	7-Mar	8.15am
san francisco	Dallas	7-Mar	7.53am

From	Through	To	Date
New Orleans	DFW	Tuscon	7-Mar
New Orleans	DFW	Denver	7-Mar
New Orleans	DFW	Nashville	7-Mar
New Orleans	DFW	Las vegas	7-Mar
New Orleans	DFW	Austin	7-Mar
New Orleans	DFW	San francisco	7-Mar

From	Through	To	Date
Tuscon	DFW	New Orleans	7-Mar
Tuscon	DFW	Denver	7-Mar
Tuscon	DFW	Nashville	7-Mar
Tuscon	DFW	Las vegas	7-Mar
Tuscon	DFW	Austin	7-Mar
Tuscon	DFW	San francisco	7-Mar

From	Through	To	Date
Denver	DFW	New Orleans	7-Mar
Denver	DFW	Tuscon	7-Mar
Denver	DFW	Nashville	7-Mar
Denver	DFW	Las vegas	7-Mar
Denver	DFW	Austin	7-Mar
Denver	DFW	San francisco	7-Mar

From	Through	To	Date
Nashville	DFW	New Orleans	7-Mar
Nashville	DFW	Tuscon	7-Mar
Nashville	DFW	Denver	7-Mar
Nashville	DFW	Las vegas	7-Mar
Nashville	DFW	Austin	7-Mar
Nashville	DFW	San francisco	7-Mar

From	Through	To	Date
Las Vegas	DFW	New Orleans	7-Mar
Las Vegas	DFW	Tuscon	7-Mar
Las Vegas	DFW	Denver	7-Mar

Las Vegas	DFW	Nashvile	7-Mar
Las Vegas	DFW	Austin	7-Mar
Las Vegas	DFW	San francisco	7-Mar

From	Through	To	Date
Austin	DFW	New Orleans	7-Mar
Austin	DFW	Tuscon	7-Mar
Austin	DFW	Denver	7-Mar
Austin	DFW	Nashvile	7-Mar
Austin	DFW	Las Vegas	7-Mar
Austin	DFW	San francisco	7-Mar

From	Through	To	Date
San francisco	DFW	New Orleans	7-Mar
San francisco	DFW	Tuscon	7-Mar
San francisco	DFW	Denver	7-Mar
San francisco	DFW	Nashvile	7-Mar
San francisco	DFW	Las Vegas	7-Mar
San francisco	DFW	Austin	7-Mar

Ticket price
\$162
\$316
\$155
\$194
\$199
\$758
\$221

departure time	Ticket price	hub price	price difference	hub premium
7.00am	\$263	\$162	\$101	no
7.00am	\$241	\$162	\$79	no
7.00am	\$189	\$162	\$27	no
7.00am	\$269	\$162	\$107	no
7.00am	\$149	\$162	-\$13	yes
7.00am	\$159	\$162	-\$3	no

departure time	Ticket price	hub price	price difference	hub premium
6.15am	\$263	\$316	-53	yes
6.15am	\$504	\$316	188	no
6.15am	\$284	\$316	-32	yes
6.15am	x	\$316	x	x
6.15am	\$226	\$316	-90	yes
6.15am	x	316	x	x

departure time	Ticket price	hub price	price difference	hub premium
7.17am	\$241	\$155	\$86	no
7.17am	\$504	\$155	\$349	no
7.17am	\$241	\$155	\$86	no
7.17am	\$475	\$155	\$320	no
7.17am	\$203	\$155	\$48	no
7.17am	\$375	\$155	\$220	no

departure time	Ticket price	hub price	price difference	hub premium
8.00am	\$189	\$194	-\$5	yes
8.00am	\$284	\$194	\$90	no
8.00am	\$241	\$194	\$47	no
8.00am	\$238	\$194	\$44	no
8.00am	\$164	\$194	-\$30	yes
8.00am	\$168	\$194	-\$26	yes

departure time	Ticket price	hub price	price difference	hub premium
6.45am	\$269	\$199	\$70	no
6.45am	x	\$199	x	x
6.45am	\$386	\$199	\$187	no

6.45am	\$238	\$199	\$39	no
6.45am	\$199	\$199	\$0	same
6.45am	x	\$199	x	x

departure time	Ticket price	hub price	price difference	hub premium
8.15am	\$592	\$758	-\$166	yes
8.15am	\$549	\$758	-\$209	yes
8.15am	\$479	\$758	-\$279	yes
8.15am	\$458	\$758	-\$300	yes
8.15am	x	758	x	x
8.15am	x	758	x	x

departure time	Ticket price	hub price	price difference	hub premium
7.53am	\$159	\$221	-\$62	yes
7.53am	\$555	\$221	\$334	no
7.53am	\$375	\$221	\$154	no
7.53am	\$168	\$221	-\$53	yes
7.53am	x	\$221	x	x
7.53am	\$252	\$221	\$31	no

data from 2/22

data from 2/22

From	To	Date	departure time	Ticket price
New Orleans	Dallas	7-Mar	7:00am	\$162
Tucson	Dallas	7-Mar	6:15am	\$316
Denver	Dallas	7-Mar	7:17am	\$155
Nashville	Dallas	7-Mar	8:00am	\$194
Las Vegas	Dallas	7-Mar	6:45am	\$199
Austin	Dallas	7-Mar	8:15am	\$758
San Francisco	Dallas	7-Mar	7:53am	\$221

From	Through	To	Date	departure time	Ticket price	hub price	price difference	hub premium
New Orleans	DFW	Tucson	7-Mar	7:00am	\$263	\$162	\$101	no
New Orleans	DFW	Denver	7-Mar	7:00am	\$241	\$162	\$79	no
New Orleans	DFW	Nashville	7-Mar	7:00am	\$189	\$162	\$27	no
New Orleans	DFW	Las Vegas	7-Mar	7:00am	\$269	\$162	\$107	no
New Orleans	DFW	Austin	7-Mar	7:00am	\$146	\$162	\$13	yes
New Orleans	DFW	San Francisco	7-Mar	7:00am	\$159	\$162	\$3	no

From	Through	To	Date	departure time	Ticket price	hub price	price difference	hub premium
Tucson	DFW	New Orleans	7-Mar	6:15am	\$263	\$316	\$53	yes
Tucson	DFW	Denver	7-Mar	6:15am	\$504	\$316	188	no
Tucson	DFW	Nashville	7-Mar	6:15am	\$284	\$316	\$32	yes
Tucson	DFW	Las Vegas	7-Mar	6:15am	x	\$316	x	x
Tucson	DFW	Austin	7-Mar	6:15am	\$276	\$316	\$40	yes
Tucson	DFW	San Francisco	7-Mar	6:15am	x	316	x	x

From	Through	To	Date	departure time	Ticket price	hub price	price difference	hub premium
Denver	DFW	New Orleans	7-Mar	7:17am	\$241	\$155	\$86	no
Denver	DFW	Tucson	7-Mar	7:17am	\$504	\$155	\$349	no
Denver	DFW	Nashville	7-Mar	7:17am	\$241	\$155	\$86	no
Denver	DFW	Las Vegas	7-Mar	7:17am	\$475	\$155	\$320	no
Denver	DFW	Austin	7-Mar	7:17am	\$203	\$155	\$48	no
Denver	DFW	San Francisco	7-Mar	7:17am	\$375	\$155	\$220	no

From	Through	To	Date	departure time	Ticket price	hub price	price difference	hub premium
Nashville	DFW	New Orleans	7-Mar	8:00am	\$189	\$194	-\$5	yes
Nashville	DFW	Tucson	7-Mar	8:00am	\$284	\$194	\$90	no
Nashville	DFW	Denver	7-Mar	8:00am	\$241	\$194	\$47	no
Nashville	DFW	Las Vegas	7-Mar	8:00am	\$238	\$194	\$44	no
Nashville	DFW	Austin	7-Mar	8:00am	\$164	\$194	\$30	yes
Nashville	DFW	San Francisco	7-Mar	8:00am	\$169	\$194	\$26	yes

From	Through	To	Date	departure time	Ticket price	hub price	price difference	hub premium
Las Vegas	DFW	New Orleans	7-Mar	6:45am	\$269	\$199	\$70	no
Las Vegas	DFW	Tucson	7-Mar	6:45am	x	\$199	x	x
Las Vegas	DFW	Denver	7-Mar	6:45am	\$386	\$199	\$187	no
Las Vegas	DFW	Nashville	7-Mar	6:45am	\$238	\$199	\$39	no
Las Vegas	DFW	Austin	7-Mar	6:45am	\$199	\$199	\$0	same
Las Vegas	DFW	San Francisco	7-Mar	6:45am	x	\$199	x	x

From	Through	To	Date	departure time	Ticket price	hub price	price difference	hub premium
Austin	DFW	New Orleans	7-Mar	8:15am	\$592	\$758	\$166	yes
Austin	DFW	Tucson	7-Mar	8:15am	\$509	\$758	\$249	yes
Austin	DFW	Denver	7-Mar	8:15am	\$479	\$758	\$279	yes
Austin	DFW	Nashville	7-Mar	8:15am	\$458	\$758	\$300	yes
Austin	DFW	Las Vegas	7-Mar	8:15am	x	758	x	x
Austin	DFW	San Francisco	7-Mar	8:15am	x	758	x	x

From	Through	To	Date	departure time	Ticket price	hub price	price difference	hub premium
San Francisco	DFW	New Orleans	7-Mar	7:53am	\$159	\$221	-\$62	yes
San Francisco	DFW	Tucson	7-Mar	7:53am	\$555	\$221	\$334	no
San Francisco	DFW	Denver	7-Mar	7:53am	\$375	\$221	\$154	no
San Francisco	DFW	Nashville	7-Mar	7:53am	\$168	\$221	-\$53	yes
San Francisco	DFW	Las Vegas	7-Mar	7:53am	x	\$221	x	x
San Francisco	DFW	Austin	7-Mar	7:53am	\$252	\$221	\$31	no

Exhibit A-2

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

Plaintiff,

v.

SKIPLAGGED, INC.,

Defendant.

Civil Action

No. 4:23-cv-

00860-P

VIDEOTAPED DEPOSITION OF

BIJAN VASIGH, PHD

DATE: Thursday, June 6, 2024

TIME: 12:30 p.m.

LOCATION: Kirkman Law Firm, PLLC
201 Main Street, Suite 1160
Fort Worth, TX 76102

OFFICIATED BY: Maggie Berry

JOB NO.: 6746333

<p>1 APPEARANCES</p> <p>2 ON BEHALF OF PLAINTIFF AMERICAN AIRLINES, INC.:</p> <p>3 ALYSSA ORTIZ JOHNSTON, ESQUIRE</p> <p>4 BINA PALNITKAR, ESQUIRE</p> <p>5 Greenberg Traurig LLP</p> <p>6 2200 Ross Avenue, Suite 5200</p> <p>7 Dallas, TX 75201</p> <p>8 johnstona@gtlaw.com</p> <p>9 palnitkarb@gtlaw.com</p> <p>10 (214) 665-3732</p> <p>11 (214) 665-3727</p> <p>12</p> <p>13 ON BEHALF OF DEFENDANT SKIPLAGGED, INC.:</p> <p>14 WILLIAM L. KIRKMAN, ESQUIRE</p> <p>15 Kirkman Law Firm, PLLC</p> <p>16 201 Main Street, Suite 1160</p> <p>17 Fort Worth, TX 76102</p> <p>18 billk@kirkmanlawfirm.com</p> <p>19 (817) 336-2800</p> <p>20</p> <p>21 ALSO PRESENT:</p> <p>22 Don Harris, Videographer</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 2</p>	<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: On the record at</p> <p>3 12:30 p.m.</p> <p>4 THE OFFICER: Good afternoon, everyone.</p> <p>5 My name is Maggie Berry; I'm the reporter assigned by</p> <p>6 Veritext to take a record of this proceeding. We are</p> <p>7 now on the record. The time is 12:31 p.m.</p> <p>8 This is the deposition of Dr. Bijan</p> <p>9 Vasigh taken in the matter of American Airlines,</p> <p>10 Incorporated vs. Skiplagged, Incorporated. Today's</p> <p>11 date is June 6, 2024. We are located at 201 Main</p> <p>12 Street, Suite number 1160, Fort Worth, Texas 76102.</p> <p>13 I am a notary authorized to take</p> <p>14 acknowledgments and administer oaths in Texas.</p> <p>15 Additionally, absent any objection on</p> <p>16 the record before the witness is sworn, all parties</p> <p>17 and the witness understand and agree that any</p> <p>18 certified transcript produced from the recording of</p> <p>19 this proceeding:</p> <p>20 - is intended for all uses permitted</p> <p>21 under applicable procedural and</p> <p>22 evidentiary rules and laws in the</p> <p>23 same manner as a deposition recorded</p> <p>24 by stenographic means; and</p> <p>25 - shall constitute written stipulation</p> <p style="text-align: right;">Page 4</p>
<p>1 INDEX</p> <p>2 EXAMINATION: PAGE</p> <p>3 By Ms. Johnston 6</p> <p>4 By Mr. Kirkman 79</p> <p>5 By Ms. Johnston 83</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 NO. DESCRIPTION PAGE</p> <p>9 Exhibit 1 Report By Dr. Bijan Vasigh:</p> <p>10 "Hidden City Travel And Its</p> <p>11 Impact Upon Passengers,</p> <p>12 Implications For The</p> <p>13 Traveling Public" 9</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 3</p>	<p>1 of such.</p> <p>2 The proceeding will be recorded via</p> <p>3 video technology by Mr. Don Harris.</p> <p>4 At this time will everyone in</p> <p>5 attendance please identify yourself for the record,</p> <p>6 beginning here with Dr. Vasigh.</p> <p>7 DR. VASIGH: My name is Bijan Vasigh.</p> <p>8 THE OFFICER: Okay. Counsel?</p> <p>9 MR. KIRKMAN: My name is Bill Kirkman.</p> <p>10 I am a lawyer for Skiplagged, Inc.</p> <p>11 I want the record to reflect that we</p> <p>12 have been here since 10 a.m., ready to go for this</p> <p>13 deposition, which was noticed at that time. And now,</p> <p>14 we're starting at 12:30 for reasons that I understand</p> <p>15 because neither a court reporter or a videographer was</p> <p>16 engaged.</p> <p>17 MS. JOHNSTON: Alyssa Ortiz Johnston</p> <p>18 and Bina Palnitkar on behalf of American Airlines.</p> <p>19 THE OFFICER: Thank you.</p> <p>20 Hearing no objection, I'll now swear in</p> <p>21 the witness.</p> <p>22 Dr. Vasigh, if you'll please raise your</p> <p>23 right hand? Thank you -- thank you, sir.</p> <p>24 //</p> <p>25 //</p> <p style="text-align: right;">Page 5</p>

<p>1 WHEREUPON, 2 BIJAN VASIGH, PHD, 3 called as a witness and having been first duly sworn 4 to tell the truth, the whole truth, and nothing but 5 the truth, was examined and testified as follows: 6 THE OFFICER: And before we get 7 started, that just brings up -- whenever she's asking 8 a question, even if you know what she's going to ask, 9 if you'll let her get her whole question out, please. 10 THE WITNESS: Absolutely. 11 THE OFFICER: Thank you. 12 Counsel, you may proceed. 13 EXAMINATION 14 BY MS. JOHNSTON: 15 Q Please state your name for the record. 16 A Bijan Vasigh. 17 Q Dr. Vasigh, what's your occupation? 18 A I'm a professor, I'm a writer, I'm a 19 consultant, and a speaker. 20 Q And my understanding is that you were hired 21 by Skiplagged or its attorney to serve as an expert in 22 this case; is that correct? 23 A Yes. 24 Q When were you first contacted by Skiplagged 25 or its attorney to serve as an expert?</p> <p style="text-align: right;">Page 6</p>	<p>1 A \$450 per hour. 2 Q And how much have you billed to this case so 3 far? 4 A Like, about 30 hours or something, I'm not 5 sure. I can give you later an exactly, but I don't 6 check that much money. 7 Q Do you keep track of the time that you've 8 spent? 9 A Of course. 10 Q How much have you been paid to date for your 11 engagement? 12 A I don't have full recollection of that. 13 About ten or something. 14 Q I'm sorry, can you repeat that? 15 A I don't have a full recollection of that. 16 It's about, I don't know, ten-something or -- 17 Q Do you have a different rate for testifying 18 than you do for writing a report? 19 A No. 20 Q Okay. What documents have you reviewed in 21 this case? 22 A Several documents. Many documents. 23 Q Can you go ahead and share those with me? 24 MR. KIRKMAN: The report would show 25 those.</p> <p style="text-align: right;">Page 8</p>
<p>1 A I don't know exactly, probably five or six 2 months ago, four -- I don't recollect, but should be 3 about several months ago. 4 Q And was it Skiplagged's counsel that 5 contacted you, or was it somebody from Skiplagged? 6 A No, I believe from the office here. 7 Q From Skiplagged's attorney's office? 8 A Yes -- yes, from the -- yes. 9 Q Okay. And you have an engagement agreement 10 with Mr. Kirman's office? 11 A Yes. Unofficial, yes, that's right. Yes, 12 yes, we do. 13 Q You said unofficial? 14 A Yes. I -- yes, we do. Yes. 15 Q Okay. And you said about five months ago 16 you were hired, approximately? 17 A About, yes. 18 Q Is that the first time that they reached out 19 to you, about five months ago? 20 A About, yes -- 21 Q And then shortly thereafter, you were 22 engaged? 23 A Yes -- yes. 24 Q Okay. What is your hourly rate in this 25 case?</p> <p style="text-align: right;">Page 7</p>	<p>1 BY MS. JOHNSTON: 2 Q We'll get to that later. Do you recall, 3 like, any -- well, I'll just go ahead and mark it. 4 We'll mark Exhibit 1 Dr. Vasigh's report in this 5 matter. 6 (Exhibit 1 was marked for 7 identification.) 8 And Dr. Vasigh, looking at -- now that you 9 have your report in your hand, do you recognize this 10 document? 11 A Yes, I do. 12 Q And is this your expert report in this case? 13 A Yes. 14 Q Okay. Will you point us to the documents 15 that you've reviewed in this case? 16 A I reviewed many, and I believe that it has 17 been put on the back of the report. 18 Q <u>And so I think that's Exhibit B of your</u> 19 <u>report; is that correct?</u> 20 <u>A Please allow me to -- that's Exhibit A --</u> 21 <u>yes, I'll go to Exhibit B.</u> 22 <u>Q And looking at this list, are these the only</u> 23 <u>documents that you've reviewed related to this case</u> 24 <u>and in preparation for preparing your report?</u> 25 <u>A Yes. These are the document, yes.</u></p> <p style="text-align: right;">Page 9</p>

<p>1 <u>Q Is there anything that is not on this list</u> 2 <u>that you have reviewed?</u> 3 <u>A I don't remember, no. No, I didn't.</u> 4 Q Okay. And so the first one up here is the 5 Declarations of Aktarar Zamen, and it looks like you 6 reviewed two of those declarations; is that correct? 7 A Uh-huh. 8 Q And I believe that it should be October 2nd 9 is the date of the declaration on October 22nd, and 10 then December 15th. Do you recall reviewing these two 11 declarations? 12 A You're looking at the item number 1 and 2? 13 Q That's correct. 14 Q Yes. I have reviewed many document. 15 Specifically, if you ask me what page, I don't have a 16 recall. Yes, I have reviewed that. Yes. 17 Q And did anything in -- what was the purpose 18 of reviewing those declarations? 19 A To get more information regarding that, 20 the -- the hidden city ticketing, what are the pros, 21 what are the cons, and what are the impacts. 22 Q Prior to this lawsuit, were you aware of 23 what hidden city ticketing was? 24 A Yes, I do. 25 Q Did you find these two declarations, then,</p> <p style="text-align: right;">Page 10</p>	<p>1 Q And then, the second document on that 2 Exhibit B is the live pleading in this matter; is that 3 correct? It's the complaint; right? 4 A Okay. Which one? 5 Q Number 2. 6 A Okay. 7 Q And so you reviewed the complaint in this 8 matter? 9 A Please remember, I read many of them, 10 glanced through. And based on that, I tried to 11 understand what are the pros and what are the cons, 12 what are the pitfall and what are the application. I 13 don't have the full recollection of the article at 14 this time, but I know I have read that, yes. 15 Q Are you saying "that article"? 16 A This -- yes. You are talking about the -- 17 an item number 2, First Amended Complaint of American? 18 Yes. 19 Q Right. That is the lawsuit. 20 A That's -- yes. 21 Q Okay. And so you you don't remember if you 22 completely read that document? 23 A Yes, I read that, but I don't have a full 24 recollection at this time. Yes. 25 Q <u>Okay. And then, the remaining items on</u></p> <p style="text-align: right;">Page 12</p>
<p>1 official to you at all? 2 A Yes. 3 Q In what way? 4 A I'm a professor of economics and 5 transportation. I teach economics, and always this 6 subject of hidden city ticketing comes to my students. 7 Many of them, especially when they don't have money 8 and so forth, they have taken this advantage. 9 Therefore, we discuss, look at the what is the pros 10 and what are the cons, and so forth. 11 Q And so upon reviewing these two 12 declarations, is there anything that you learned in 13 those declarations that you did not know prior to -- 14 A No. 15 Q -- reading them? 16 A I knew. 17 MR. KIRKMAN: Let her finish first. 18 THE WITNESS: I'm -- I'm sorry. I 19 apologize. I apologize. 20 BY MS. JOHNSTON: 21 Q <u>Is there anything in these declarations that</u> 22 <u>served as the basis for any of your opinions in your</u> 23 <u>report?</u> 24 <u>MR. KIRKMAN: Form.</u> 25 <u>A No.</u></p> <p style="text-align: right;">Page 11</p>	<p>1 <u>here, I think it's about 24 articles; is that correct?</u> 2 <u>A Yes.</u> 3 <u>Q Who provided these to you? Or did you</u> 4 <u>gather these yourself?</u> 5 <u>A Few of them was provided by Dr. Kirkman</u> 6 <u>[sic]. And the few other, you know, I'm a professor;</u> 7 <u>I searched different site. It's done both.</u> 8 <u>Q Did you ask Skiplagged's counsel to provide</u> 9 <u>you with articles related to skiplagging in general or</u> 10 <u>this case?</u> 11 <u>A I believe they provided couple of articles,</u> 12 <u>yes.</u> 13 <u>Q Okay. And so looking at this Exhibit B, in</u> 14 <u>preparing your report, these are the only documents</u> 15 <u>that you reviewed?</u> 16 A Continuously, I review. Yes. Maybe few 17 other, too. Yes, but these are the one that I have 18 reviewed. Yes. 19 Q What would the few other ones be? 20 A For example, today, I read the report with 21 New York Times regarding a skip lag. They were 22 talking about a student of -- he was 17 years old. He 23 wanted to go see his family, but prevented by American 24 Airline because they thought that he wants to go to 25 Charlotte; he want not to New York. Therefore, yes.</p> <p style="text-align: right;">Page 13</p>

<p>1 I continuously read material, yes.</p> <p>2 Q But in terms of the information that you</p> <p>3 used to prepare your report, the information that</p> <p>4 serves as the basis for your opinions in your report,</p> <p>5 are the documents on Exhibit B the only documents that</p> <p>6 you used?</p> <p>7 A Yes -- yes.</p> <p>8 Q Okay. Have you reviewed any deposition</p> <p>9 testimony in this matter?</p> <p>10 A No.</p> <p>11 Q Turning briefly to your CV, which is Exhibit</p> <p>12 A to your report.</p> <p>13 A Uh-huh.</p> <p>14 Q I just want to go over a few things in here.</p> <p>15 Let me know, are you there?</p> <p>16 A Yes.</p> <p>17 MR. KIRKMAN: Let him find it. Hold</p> <p>18 on.</p> <p>19 MS. JOHNSTON: Yep.</p> <p>20 MR. KIRKMAN: It's about maybe a third</p> <p>21 of the way through.</p> <p>22 THE WITNESS: Under what?</p> <p>23 MR. KIRKMAN: Here, I'll help you find</p> <p>24 it.</p> <p>25 THE WITNESS: Thank you.</p> <p style="text-align: right;">Page 14</p>	<p>1 A <u>Advanced air transport economics.</u></p> <p>2 Q <u>Anything else?</u></p> <p>3 A <u>Engineering economics -- engineering</u></p> <p>4 <u>economics.</u></p> <p>5 Q <u>How long have you been teaching those</u></p> <p>6 <u>courses?</u></p> <p>7 A <u>About 30 years.</u></p> <p>8 Q <u>Are there any other courses that you've</u></p> <p>9 <u>taught in the past few years other than those two?</u></p> <p>10 A <u>Yes. Air transport finance, which has a</u></p> <p>11 <u>published book on that area, too.</u></p> <p>12 Q <u>What else?</u></p> <p>13 A <u>That's good.</u></p> <p>14 Q <u>So these are your three main rotating</u></p> <p>15 <u>courses?</u></p> <p>16 A <u>That's right -- yes.</u></p> <p>17 Q <u>Okay. Also, it looks like you're the</u></p> <p>18 <u>founder and president of Aviation Consulting Group,</u></p> <p>19 <u>and you reference that you're a consultant. What does</u></p> <p>20 <u>this company do? What kind of consulting do you do?</u></p> <p>21 A <u>Generally, regarding consulting airline</u></p> <p>22 <u>economics and finance. Anything related to cases on</u></p> <p>23 <u>economics and finance, of course, on aviation air</u></p> <p>24 <u>transportation.</u></p> <p>25 Q And when you say "cases," what do you mean</p> <p style="text-align: right;">Page 16</p>
<p>1 MR. KIRKMAN: We'll save some time</p> <p>2 here.</p> <p>3 MS. JOHNSTON: It's just right after</p> <p>4 the report.</p> <p>5 THE WITNESS: Yes. Exhibit A is my CV,</p> <p>6 yes.</p> <p>7 BY MS. JOHNSTON:</p> <p>8 Q And you have a master's and a PhD in</p> <p>9 economics; is that right?</p> <p>10 A Yes.</p> <p>11 Q Where did you -- did you receive any --</p> <p>12 well, where did you receive your education prior to</p> <p>13 that master's program?</p> <p>14 A I got from Iran.</p> <p>15 Q Where?</p> <p>16 A Iran.</p> <p>17 Q Where in Iran?</p> <p>18 A National University of Iran.</p> <p>19 Q And what degree was that?</p> <p>20 A Economics.</p> <p>21 Q And you currently teach economics, finance,</p> <p>22 and accounting at Embry-Riddle Aeronautical</p> <p>23 University?</p> <p>24 A Yes.</p> <p>25 Q <u>What courses do you teach?</u></p> <p style="text-align: right;">Page 15</p>	<p>1 by cases?</p> <p>2 A Similar to this, there's a dispute between</p> <p>3 two parties.</p> <p>4 Q Have you previously served as an expert in a</p> <p>5 litigation matter before?</p> <p>6 A I've been consultant, yes.</p> <p>7 Q Have you been designated as an expert --</p> <p>8 A No.</p> <p>9 Q -- before?</p> <p>10 MR. KIRKMAN: Make sure she finishes</p> <p>11 her question.</p> <p>12 THE WITNESS: Well, I -- I apologize.</p> <p>13 Yes.</p> <p>14 MR. KIRKMAN: Thank you.</p> <p>15 BY MS. JOHNSTON:</p> <p>16 Q <u>You have consulted in other litigation</u></p> <p>17 <u>matters, but you have not been designated as an</u></p> <p>18 <u>expert?</u></p> <p>19 A <u>Yes.</u></p> <p>20 Q <u>Have you given any sort of testimony in a</u></p> <p>21 <u>litigation matter?</u></p> <p>22 A <u>No.</u></p> <p>23 Q You live in Florida; is that correct?</p> <p>24 A Yes.</p> <p>25 Q Was there a case back in 2016 where you</p> <p style="text-align: right;">Page 17</p>

<p>1 served as an expert in a tax-related matter?</p> <p>2 A 2016?</p> <p>3 Q Uh-huh.</p> <p>4 A I don't have that recollection.</p> <p>5 Q Okay. You're a Fellow Airneth; is that</p> <p>6 right?</p> <p>7 A Yes.</p> <p>8 Q What is Airneth?</p> <p>9 A Association of European Aviation Economist.</p> <p>10 Q And what do you do in this capacity as a</p> <p>11 fellow?</p> <p>12 A Organizing conferences, inviting speakers.</p> <p>13 Q So you help coordinate the events?</p> <p>14 A In front of the members.</p> <p>15 Q Do you provide any substantive contribution</p> <p>16 to the conference?</p> <p>17 A No.</p> <p>18 Q And then, Jet Perfect Foundation; what is</p> <p>19 this?</p> <p>20 A There is a company -- there is a group that</p> <p>21 they are trying to promote sustainable aviation fuel.</p> <p>22 THE OFFICER: I'm sorry, what kind of</p> <p>23 fuel?</p> <p>24 THE WITNESS: Sustainable aviation</p> <p>25 fuel.</p> <p style="text-align: right;">Page 18</p>	<p>1 and selecting paper for presentation.</p> <p>2 Q What topics do you speak at at these</p> <p>3 conferences, at the International Aviation Management</p> <p>4 Conference?</p> <p>5 A Topics related to aviation and economics and</p> <p>6 finance.</p> <p>7 Q Are those separately listed in your CV?</p> <p>8 A Yes. That's right, yes.</p> <p>9 Q Okay. And then, it looks like you have past</p> <p>10 appointments. You're a visiting professor at a few</p> <p>11 different universities. Were the three courses that</p> <p>12 we talked about earlier, are those the same courses</p> <p>13 that you teach at these universities, as well, or are</p> <p>14 there different courses?</p> <p>15 A Yes, ma'am. The same.</p> <p>16 Q The same? Okay. And then your recent</p> <p>17 consulting experience, it looks like there's a lot of</p> <p>18 international consulting that you do; is that correct?</p> <p>19 A Yes; what various.</p> <p>20 Q I just want to focus on a couple of them. I</p> <p>21 want to look at the domestic ones. On the -- those</p> <p>22 aren't page-numbered, so it's a little challenging.</p> <p>23 In 2004 and 2005, you prepared a comprehensive</p> <p>24 strategic examination of the U.S. airline industry.</p> <p>25 That's the fourth page of your CV, and it's the fourth</p> <p style="text-align: right;">Page 20</p>
<p>1 THE OFFICER: Sustainable. Thank you.</p> <p>2 THE WITNESS: SAF; sustainable aviation</p> <p>3 fuel.</p> <p>4 BY MS. JOHNSTON:</p> <p>5 Q And you're on the board of directors?</p> <p>6 A Yes.</p> <p>7 Q How long have you been serving in that</p> <p>8 capacity?</p> <p>9 A A year and half or two years.</p> <p>10 Q And then, what is the International Aviation</p> <p>11 Management Conference?</p> <p>12 A There's several of them. Which one do you</p> <p>13 mean?</p> <p>14 Q Well, on your CV, it says you're "A member</p> <p>15 of the Technical Committee, International Aviation</p> <p>16 Management Conference."</p> <p>17 A Oh. That is a Dubai, inter- -- there's a</p> <p>18 university in Dubai of -- Dubai Aviation University.</p> <p>19 Q Okay. And you said as a member of the</p> <p>20 technical committee on that?</p> <p>21 A That's right.</p> <p>22 Q And what do you do as a member of a</p> <p>23 technical committee?</p> <p>24 A They are organizing conferences annually;</p> <p>25 I'm most of the time the speaker of that conference,</p> <p style="text-align: right;">Page 19</p>	<p>1 bullet point down. It starts with "Kenny Nachwalter,</p> <p>2 P.A."</p> <p>3 A Yes.</p> <p>4 Q Do you see that?</p> <p>5 A Yes.</p> <p>6 Q Okay. What kind of strategic examination</p> <p>7 did you perform? What is this?</p> <p>8 A I don't know if I'm allowed to talk. That</p> <p>9 was a -- that was a case IRS sued an airline for tax</p> <p>10 evasion, apparently, and I was examining the finance</p> <p>11 of that company.</p> <p>12 Q So it was as to a particular company?</p> <p>13 A That's right.</p> <p>14 Q So when you say "a comprehensive strategic</p> <p>15 examination of U.S. airline industry," did you look at</p> <p>16 the U.S. airline industry, as well?</p> <p>17 A I look at U.S. airline industry, as well as</p> <p>18 the company called Arrow Air. I was looking,</p> <p>19 comparing to see that if there's a disparity of</p> <p>20 expenses, disparity of income, and so forth. Yes.</p> <p>21 Q Okay. Is there -- strike that. And then,</p> <p>22 the second from the bottom on this same page, right</p> <p>23 before Executive Education, the second bullet point up</p> <p>24 from that, you worked as a NASA research grant on a</p> <p>25 grant entitled "Determination of Statewide Economic</p> <p style="text-align: right;">Page 21</p>

<p>1 Impacts of Small Aircraft Transportation Systems." Do 2 you see that?</p> <p>3 A I'm sorry, that same page?</p> <p>4 Q Correct, yep. Just two up from "Executive 5 Education."</p> <p>6 A Oh, yes.</p> <p>7 Q What is small aircraft transportation 8 systems?</p> <p>9 A At that time, NASA envisioning that to have 10 small aircraft, like a car, to fly from home in order 11 to open up the space for cars that really act as a 12 aircraft in order to expedite traffic.</p> <p>13 Q Okay. And then, looking briefly at your 14 executive education -- again, there's a lot of 15 international work here. I just want to ask you; it 16 looks like there are --</p> <p>17 Well, there are a few that relate to airline 18 revenue management, it looks like for IATA, the 19 Airline Tariff Publishing Company. Does that -- do 20 you see those? It's hard because they're not 21 numbered, but --</p> <p>22 MR. KIRKMAN: What's the first entry on 23 the page, and we'll find it. Is it "Airline Pricing 24 and" --</p> <p>25 MS. JOHNSTON: Well, let's see. It's</p> <p style="text-align: right;">Page 22</p>	<p>1 are these generally the same curriculum that you use, 2 or are they different?</p> <p>3 A No -- yes. They are the same.</p> <p>4 Q So when it says "Airline Revenue Management" 5 or "Dynamic Pricing Policy" in different places, 6 that's the same thing?</p> <p>7 A Yes.</p> <p>8 Q Okay. And "Airline Revenue Management," 9 that course or that training, what is that about?</p> <p>10 A As we know, it was around 1970, '80, 11 American Airline started to have revenue management. 12 Revenue management is based on the fact that airlines 13 try to identify passengers with different price- 14 elasticity of demand in order to charge higher prices 15 to the passenger which they have lower elasticity, and 16 lower price to higher elasticity.</p> <p>17 Therefore, try to extract the maximum amount 18 of revenue from their passenger, they call airline 19 revenue management. It's a part of price escalation 20 we teach. Price escalation means that charging 21 different prices to different customers.</p> <p>22 Therefore, if the customers are not price 23 elastic, airline charging the high prices. If the 24 passenger are price elastic, they will charge lower 25 price. This called -- nutshell, but is revenue</p> <p style="text-align: right;">Page 24</p>
<p>1 page number 5 of his CV, and it's -- I'm just looking 2 at --</p> <p>3 MR. KIRKMAN: What's the first entry 4 say?</p> <p>5 MS. JOHNSTON: "Airline Pricing and 6 Revenue Management."</p> <p>7 MR. KIRKMAN: Okay. We got it.</p> <p>8 THE WITNESS: Yes.</p> <p>9 MS. JOHNSTON: Yep. Okay.</p> <p>10 BY MS. JOHNSTON:</p> <p>11 Q So are these, with 12 <u>"Executive education," are you going into companies</u> 13 <u>and you're training them?</u></p> <p>14 A Yes.</p> <p>15 Q Okay. And so these "Airline Pricing and 16 Revenue Management," these are -- are these, like, the 17 same course that you're modifying for the particular 18 company, or are all of these different lessons?</p> <p>19 A Let me correct.</p> <p>20 Q Uh-huh.</p> <p>21 A These are both training and actual courses 22 to grant MBA. Both training and actual courses to get 23 degree of MBA, Master of Business Administration, 24 Aviation.</p> <p>25 Q Okay. And so are these courses or training,</p> <p style="text-align: right;">Page 23</p>	<p>1 management.</p> <p>2 Q So that is what you understand as revenue 3 management?</p> <p>4 A That's right.</p> <p>5 Q Okay. And that, generally, is what you go 6 into these companies or classrooms and teach in these 7 instances?</p> <p>8 A Yes.</p> <p>9 Q Okay. Do you have, like, a curriculum that 10 you use?</p> <p>11 A Yes.</p> <p>12 Q You have literature that you hand out?</p> <p>13 A Yes. Both my book, and also, there are 14 series of lecture notes, assignment, game theory, and 15 so forth.</p> <p>16 Q Is there a difference between "Airline 17 Revenue Management" and "Airline Finance and 18 Accounting Management"?</p> <p>19 A Absolutely, yes.</p> <p>20 Q What is the difference between the two?</p> <p>21 A Finance is generally managing how much is 22 your investment, what you invest. For example, 23 leasing an aircraft or buying an aircraft; therefore, 24 short lease. These all goes to finance.</p> <p>25 Revenue management is something talks simply</p> <p style="text-align: right;">Page 25</p>

<p>1 about management of pricing; how to change your prices 2 in order to maximize aircraft revenue.</p> <p>3 Q Okay. And then, down in your referred [sic] 4 publications, the second one down, it looks like, you 5 co-authored this article entitled "The Blurring Lines 6 Between Full-Service Network Carriers and Low-Cost 7 Carriers." Do you see that one?</p> <p>8 A The next pages, yes? I --</p> <p>9 Q I'm sorry.</p> <p>10 A Should be next page, I believe.</p> <p>11 Q It's "Referred [sic] Publications," so it's 12 page 8.</p> <p>13 MR. KIRKMAN: What's at the top?</p> <p>14 MS. JOHNSTON: "Referred [sic] 15 Publications" is the next section.</p> <p>16 MR. KIRKMAN: Oh.</p> <p>17 THE WITNESS: Referred publications?</p> <p>18 MS. JOHNSTON: And then, the second one 19 down is the one that I just referenced. It's entitled 20 "The Blurring Lines Between Full-Service Network 21 Carriers and Low-Cost Carriers." Do you see that?</p> <p>22 MR. KIRKMAN: Second one down.</p> <p>23 THE WITNESS: Oh, yes. I'm sorry.</p> <p>24 BY MS. JOHNSTON:</p> <p>25 Q What is a full-service network carrier?</p> <p style="text-align: right;">Page 26</p>	<p>1 co- -- full -- the airlines, they are getting lower 2 and lower, becoming similar to low-cost carrier 3 nickeling and diming the passenger, charging for the 4 seat, charging for, for example, bags.</p> <p>5 We had that distinction between full-service 6 carrier and low-cost carrier many years ago. But that 7 distinction is disappearing; both becoming, like, the 8 same, you know? But the name is different.</p> <p>9 Q Why is it becoming the same? I assume 10 that's what you talk about in this article.</p> <p>11 A It is totally wrong by -- for carrier 12 following that, you know, there's no distinction; they 13 lose customer loyalty. Generally, earlier, there was 14 a distinction between full-service carrier and low- 15 cost carrier.</p> <p>16 Right now, there's no loyalty; passenger 17 would switch based on five or ten dollar off 18 difference. I believe a full carrier, in order to 19 compete with the low-cost carrier, it's possible they 20 are coming down, sending the ticket price similar to 21 each other.</p> <p>22 Q So you think it's based on competition that 23 the hub-and-spoke carriers have to be able to start 24 competing with or lowering their prices in order to 25 compete with the low-cost carriers?</p> <p style="text-align: right;">Page 28</p>
<p>1 A There are -- from my point of view, there 2 are three full-service carrier in U.S.: American, 3 Delta, United. They are providing service 4 domestically; they are internationally.</p> <p>5 They are totally depending on different 6 business model than, for example, other airline, like 7 short -- low-cost airline, they are doing, basically, 8 a special part of U.S.</p> <p>9 Q And so there are -- what, would this also be 10 called hub-and-spoke carriers?</p> <p>11 A Absolutely.</p> <p>12 Q All right. So we have hub-and-spoke 13 carriers, and then low-cost carriers; right?</p> <p>14 A Yes.</p> <p>15 Q And then there are some ultra-low-cost 16 carriers, as well?</p> <p>17 A Yes.</p> <p>18 Q And so this article in 2019 when you talk 19 about blurring the lines between a full service 20 carrier and a low cost carrier, what was the general 21 gist of this article?</p> <p>22 A That's very interesting question. We had, 23 really, a distinction between low-cost carrier and 24 full-service carrier in the service.</p> <p>25 But what -- recognize that service of full-</p> <p style="text-align: right;">Page 27</p>	<p>1 A On -- on a special route. On a special 2 route.</p> <p>3 Q What are those special routes that you've 4 identified?</p> <p>5 A Route that they are not initiated from hub, 6 not ending at hub.</p> <p>7 Q Okay.</p> <p>8 A May I add something? Airline, they have a 9 strong presence in hub, and they have a very high 10 degree of monopoly power and market concentration.</p> <p>11 Q And we will certainly get into that. And 12 then, the next -- Dr. Vasigh, you would categorize 13 yourself as an economic expert in the airline 14 industry; right?</p> <p>15 A I don't do it myself. I don't know if 16 they -- someone want to categorize me, that's okay. 17 But I know, yes.</p> <p>18 Q But you're an economist?</p> <p>19 A Absolutely.</p> <p>20 Q For how many years?</p> <p>21 A I got my Ph.D. on 1984, 40 years ago.</p> <p>22 Q Okay. And prior to that, you got your 23 master's in economics, and then prior to that, you got 24 your undergrad -- or bachelor's, whatever the 25 equivalent is in Iran -- in economics, as well; right?</p> <p style="text-align: right;">Page 29</p>

1 A Yes.
2 Q Okay. And so you focus on the airline
3 industry; is that correct?
4 A Yes.
5 Q Okay. Do you focus on any other industry?
6 A Yes.
7 Q What?
8 A Aircraft manufacturing.
9 Q Anything else?
10 A Leasing companies -- aircraft leasing
11 companies. Airports.
12 Q All related to the aeronautical realm;
13 right?
14 A Yes. If I may add, I'm a professor at
15 Embry-Riddle Aeronautical University. Our focus of
16 university in air transportation industry.
17 Q Okay. What data sources are routinely used
18 by economists in the airline industry?
19 A There are several public. I believe that --
20 DOT has one. FAA has one. There are some we are
21 subscribe; they call that D-O-D-I-I-O [sic]. D-O
22 [sic] provide leg-based ticket price, number of
23 passengers, and so forth.
24 Q Did you --
25 A D-O-D-I-I-O [sic], yes.

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1 Q I-O?
2 A D-I-I-O, yes.
3 Q Okay. And is that a particular database
4 of --
5 A Generally, is all of the airline average
6 ticket price, number of passenger, available seat
7 mine, revenue passenger mine, and so forth.
8 Q Okay. Is that the same as the DB1B
9 database?
10 A Yes, yes -- yes.
11 Q Okay. And --
12 THE OFFICER: I'm sorry, what was that
13 full question? Because he answered over it.
14 MS. JOHNSTON: Is that the same as the
15 DB1B database?
16 THE OFFICER: Okay. Thank you.
17 BY MS. JOHNSTON:
18 Q So you said the DOT, the FAA; is that
19 correct?
20 A Yes.
21 Q Does the FAA have a database that's publicly
22 available?
23 A Department Transportation has, yes;
24 TranStats -- TranStats. They provide data. Depending
25 on your project, could be compiled from many, many

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1 different sources. Each source provide special data.
2 Q What about the Government Accountability
3 Office, the GAO?
4 A I have not used that. That's ...
5 Q Have you heard of the Government
6 Accountability Office?
7 A Yes, I ...
8 Q But you have not used that as a source of
9 data in the history of your work?
10 A No.
11 Q Okay. Have you used the Department of
12 Transportation?
13 A Yes.
14 Q In what instances?
15 A Writing papers, doing research, doing
16 consulting. Yes.
17 Q What circumstances would lead you to the
18 Department of Transportation for information?
19 A Anytime that I felt necessary to use special
20 data, depending on the case; case by case.
21 Q Can you give an example of a case where you
22 felt the need to have data from the DOT, from this
23 database that the DOT hosts?
24 A For example: Delay, cancellation, consumer
25 complaint, and so forth. FAA, DOT.

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1 Q Okay. Are there any other data sources that
2 you're aware of that economists routinely use in the
3 airline industry?
4 A No.
5 Q Okay. And so the FAA and the DOT are the
6 only two that you routinely consult; is that correct?
7 A And D-O-D-I-I-O [sic].
8 Q Okay. And so we don't talk past ourselves
9 today, I want to make sure -- so when I say DOT, is
10 that different than the D-O-T-I-O-O [sic]?
11 A No. That is D-I-O [sic]. That's a private
12 company. It is not related to government; private
13 company. They share and they say data on airline
14 ticket prices, number of passengers sold,
15 destinations, which airlines come to a destination,
16 which airline is leaving.
17 That's a private company. They are selling
18 data for money. It is not government.
19 Q Okay. So that data is not publicly
20 available?
21 A Not.
22 Q And that is different than the DB1B database
23 that the DOT hosts?
24 A I believe. I may be -- they collect those
25 data, and they siphon -- making some sort of more

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<p>1 manageable data, and sell it. 2 Q Okay. So you have purchased data from this 3 D-I-O-O [sic] database? 4 A Yes -- yes. 5 Q Have you obtained data that was publicly 6 available from the DOT? 7 A I have used in my research numerous time the 8 data from DOT. That's right. 9 Q Okay. And so I just want to make sure as we 10 go forward today that when I refer to the DOT and the 11 DB1B database, I think that's different than what 12 you're talking about, the D-I-O-O [sic] database? 13 A Yes -- yes. 14 Q Okay. Dr. Vasigh, who prepared this report? 15 A Which one? 16 Q The report, Exhibit 1, in front of you. 17 A Me. 18 Q Did you have any assistance in preparing the 19 report? 20 A No. 21 Q How much time have you spent preparing that 22 report? Or how long did it take to prepare that 23 report? 24 A I have written -- I don't have any 25 recollection on that.</p> <p style="text-align: right;">Page 34</p>	<p>1 compare to. 2 Q Do you know why you received a document back 3 if there were no edits to it? 4 A I don't know. 5 Q Okay. This Exhibit 1, does this report 6 contain all your opinions and conclusions in this 7 case? 8 A At this point, yes. 9 Q Based on all the information available to 10 you? 11 A Yes. 12 Q And does this report contain all the 13 opinions and conclusions that you intend to offer at 14 trial? 15 MR. KIRKMAN: Object to that. That's a 16 decision that I will make. 17 A I think that -- I don't know the -- I 18 continuously read, I continuously search, and so 19 forth. But that is my best opinion at this time, yes. 20 Q As we sit here today? 21 A [No audible response.] 22 Q Okay. Dr. Vasigh, in preparing this report, 23 did you gather any information or data from 24 Skiplagged? 25 A May I add something to my previous?</p> <p style="text-align: right;">Page 36</p>
<p>1 Q Can you estimate? 2 A Thirty to forty hours, fifty hours. Yes. 3 Q I know you prepared the report. Did anyone 4 provide input on the report? 5 A No. 6 Q Anyone provide any edits to the report? 7 A I -- I -- no. 8 Q Nobody edited this report? 9 A I send it to the -- Mr. Kirkman; maybe they 10 did some editing. No. That is mine. Yes. 11 Q Did you receive a copy back with any edits 12 on it? 13 A Yes, I received a copy back. Yes. 14 Q Was it different than the version that you 15 had originally sent? 16 A No, not at all. 17 Q How do you know that? 18 A Comparison. 19 Q So you ran a comparison on it? 20 A Yes, of course. 21 Q Why did you -- 22 A You know -- generally, you know, when you 23 get something, you naturally -- you know, when I write 24 a book I send to someone, "Do something," I would go 25 to a Word document and compare to -- is it -- they can</p> <p style="text-align: right;">Page 35</p>	<p>1 Q Sure. 2 A Every day that passes, I feel more strongly 3 on this case, you know. Therefore, that is, yes, my 4 feeling become more and more stronger as I read more 5 and I recognize. Yes, please. I'm sorry. 6 MS. JOHNSTON: I'm going to object to 7 that as non-responsive. Thank you. 8 BY MS. JOHNSTON: 9 Q I'll ask my question. Did you gather any 10 data or information from Skiplagged in preparing this 11 report other than the Exhibit B materials that we 12 looked at? 13 A No. Just got few information at the 14 beginning. Couple of, yes. 15 Q Like what? 16 A It is there. 17 Q In the Exhibit B? 18 A Yes. 19 Q Okay. Did you gather or inspect any 20 information or data from or related to American 21 Airlines in preparing your report? 22 A No. 23 Q <u>So it would be fair to say that you did not</u> 24 <u>rely on any data or information from Skiplagged or</u> 25 <u>American Airlines in preparing this report; is that</u></p> <p style="text-align: right;">Page 37</p>

<p>1 <u>correct?</u></p> <p>2 A Yes.</p> <p>3 Q Had you heard of Skiplagged -- not</p> <p>4 skiplagging, but Skiplagged as a company -- prior to</p> <p>5 being engaged as an expert in this lawsuit?</p> <p>6 A Not the company specific, but I knew about</p> <p>7 this many -- yes. I didn't know -- hear about the</p> <p>8 company, per se, but the practice, yes.</p> <p>9 Q <u>Okay. Prior to -- well, have you ever been</u></p> <p>10 <u>on skiplagged.com?</u></p> <p>11 A No.</p> <p>12 Q Dr. Vasigh, in this report, correct me if</p> <p>13 I'm wrong, but my understanding is that you conclude</p> <p>14 that because airlines like American dominate the</p> <p>15 market, engage in monopolistic conduct and</p> <p>16 exploitation, that hidden city is justified because it</p> <p>17 allows the passenger to bypass high prices. Is that</p> <p>18 accurate?</p> <p>19 A Absolutely, yes.</p> <p>20 Q Okay. I want to look at a few specific</p> <p>21 opinions that you make in your report. Direct you to</p> <p>22 page 3. I believe these are numbered; your report is</p> <p>23 page-numbered. I want to look at page 3.</p> <p>24 A Page 3?</p> <p>25 Q Yes. Are you there?</p> <p style="text-align: right;">Page 38</p>	<p>1 Q There's no competition?</p> <p>2 A Practical -- I live in Daytona Beach. If I</p> <p>3 want to go from Atlanta, I need to go Daytona Beach,</p> <p>4 the only airline I can take is Delta because other</p> <p>5 airline moving you around. Therefore, competition is,</p> <p>6 I don't say zero; competition is minimal.</p> <p>7 Q And as you're giving these percentages --</p> <p>8 A Yes.</p> <p>9 Q -- is there data to back this?</p> <p>10 A Of course, of course. Yes. The data --</p> <p>11 MR. KIRKMAN: Let her finish her</p> <p>12 question.</p> <p>13 THE WITNESS: Oh -- oh. I'm sorry.</p> <p>14 BY MS. JOHNSTON:</p> <p>15 Q Where would this data be held?</p> <p>16 A Government.</p> <p>17 Q Is this the DOT?</p> <p>18 A That's right.</p> <p>19 Q <u>Okay. Is there -- did you cite to that in</u></p> <p>20 <u>your report?</u></p> <p>21 A <u>Unfortunately, no. I didn't notice that</u></p> <p>22 <u>detail. Otherwise, I would have done that.</u></p> <p>23 Q <u>And so this statement here that airline hubs</u></p> <p>24 <u>do not offer competitive routes is purely just your</u></p> <p>25 <u>opinion without evidence in this report?</u></p> <p style="text-align: right;">Page 40</p>
<p>1 A Yes.</p> <p>2 Q Okay. Second full paragraph, it begins with</p> <p>3 "Subsequently." Do you see it?</p> <p>4 A Yes.</p> <p>5 Q Okay. And I'm going to go to the second</p> <p>6 sentence. You say "The term 'fortress hubs' was</p> <p>7 coined in the 80s to highlight the significant market</p> <p>8 dominance of an airline in a hub airport, which</p> <p>9 inevitably comes with non-competitive and rather</p> <p>10 monopolistic routes to and from said hub." Do you see</p> <p>11 that?</p> <p>12 A Yes.</p> <p>13 Q In making this statement, what support do</p> <p>14 you have that airlines do not offer competitive routes</p> <p>15 at hub airports?</p> <p>16 A After consolidation of 2010, we had roughly</p> <p>17 about 11 net full carrier; right now, we have four.</p> <p>18 Airlines decided to not to compete head-to-head and</p> <p>19 divide the market.</p> <p>20 For example, if I'm not mistaken, roughly</p> <p>21 between 75 to 80 percent of the flight from DFW is</p> <p>22 American Airline; roughly about 80 percent of that.</p> <p>23 Therefore, they're not competing with each other. In</p> <p>24 Atlanta, about 75 percent dominated by Delta.</p> <p>25 Therefore, in reality, there's no competition at hub.</p> <p style="text-align: right;">Page 39</p>	<p>1 <u>MR. KIRKMAN: Form.</u></p> <p>2 <u>BY MS. JOHNSTON:</u></p> <p>3 Q <u>Is that correct?</u></p> <p>4 A <u>There's evidence, but I did not source that</u></p> <p>5 <u>in that when I didn't know that would be that</u></p> <p>6 <u>detailed.</u></p> <p>7 Q <u>There is not evidence in this report cited</u></p> <p>8 <u>to?</u></p> <p>9 A Yes.</p> <p>10 Q Okay. You say, also, that there are rather</p> <p>11 monopolistic routes. Is that different than non-</p> <p>12 competitive routes?</p> <p>13 A According to Justice Department, we have</p> <p>14 something called Herfindahl-Hirschman Index that shows</p> <p>15 the market concentration. If market concentration is</p> <p>16 more than 1800, they said no competition.</p> <p>17 Based on my analysis, Herfindahl-Hirschman</p> <p>18 Index is something about 6,000, 7,000 in U.S. airport;</p> <p>19 means that lack of competition at major hob in U.S.</p> <p>20 Herfindahl-Hirschman Index is something between zero</p> <p>21 and 10,000.</p> <p>22 Based on Justice Department, if Herfindahl-</p> <p>23 Hirschman Index is above 1500 or 1600, they call that</p> <p>24 the market is not experiencing competition. An</p> <p>25 airport like here, I'm sure that Herfindahl-Hirschman</p> <p style="text-align: right;">Page 41</p>

<p>1 should be something about 6,000; in Atlanta something 2 about -- 3 <u>We have major concentration at the U.S.</u> 4 <u>hubs, means that airlines are -- they are not absolute</u> 5 <u>monopoly of one, but they are acting as a monopolist.</u> 6 Q <u>Dr. Vasigh, you're citing these sources, but</u> 7 <u>there is nothing in your report that references those;</u> 8 <u>is that correct?</u> 9 A <u>You are absolutely correct.</u> 10 Q And we looked at Exhibit B, which was the 11 materials presented to you as you prepared your 12 report; right? And that included two declarations 13 from the CEO of Skiplagged, the complaint in this 14 matter, and then 24 news articles about skiplagging in 15 general and Skiplagged, American, and this lawsuit; is 16 that correct? 17 A Uh-huh -- uh-huh. 18 Q So based on Exhibit B, which you confirmed 19 was all that you reviewed in preparation and in 20 preparing for this report, these statements in your 21 report are not supported by any other data; is that 22 correct? 23 MR. KIRKMAN: Form. 24 A Supported it 40 years of my experience in 25 this field.</p> <p style="text-align: right;">Page 42</p>	<p>1 Q Why were those items not listed in materials 2 that you reviewed in Exhibit B? 3 A Practically, I think it's -- it might not 4 necessary, and I didn't know that that document should 5 be highly referenced. 6 Q You didn't know that you had to reference 7 data in an expert report? 8 A Yes -- yes. 9 Q Okay. So you believe that if this is 10 presented to a jury, that they should just believe you 11 because you say this is true; is that correct? 12 MR. KIRKMAN: Form. 13 A At that time, I can provide more data. 14 MS. JOHNSTON: Objection, non- 15 responsive. 16 BY MS. JOHNSTON: 17 Q If this is presented to a jury, this report 18 is presented to a jury and your testimony is presented 19 to a jury, are you saying that they should believe you 20 because of your experience in the field, and that that 21 is enough; that you do not have to have data to back 22 the statements that you make? Evidence? 23 MR. KIRKMAN: Form. 24 A I don't have any comment on that. I don't 25 know.</p> <p style="text-align: right;">Page 44</p>
<p>1 Q And so because you're an expert in this 2 field, it should be something that we take as true 3 without any data to support it? 4 MR. KIRKMAN: Form. 5 A Not necessarily. I can provide data. 6 Q But we agree that there is nothing in this 7 report; right? 8 MR. KIRKMAN: Form. 9 A Yes. 10 Q And the Exhibit B materials does not 11 reference or cite to any other source of information 12 that you used in preparing this report other than the 13 items in Exhibit B. 14 MR. KIRKMAN: Form. 15 BY MS. JOHNSTON: 16 Q So, like, this index that you're talking 17 about and the database that we referenced a moment 18 ago, that was not listed as an item that you reviewed 19 or consulted in preparing this report; is that 20 correct? 21 A <u>My opinion didn't come from those only. My</u> 22 <u>opinion based on my knowledge I acquired earlier.</u> 23 <u>Those are something that helped me. But some of those</u> 24 <u>are my opinion, based on my experience, based on my</u> 25 <u>knowledge.</u></p> <p style="text-align: right;">Page 43</p>	<p>1 Q You don't know? 2 A Yes. 3 Q Do you want me to rephrase the question? 4 A You are asking if they believe me or not? 5 Q <u>I'm asking you, if your opinion is presented</u> 6 <u>to the jury without any data, without any evidence,</u> 7 <u>without any citations to anything, that you are asking</u> 8 <u>the jury to believe you because of your experience in</u> 9 <u>the field; is that correct?</u> 10 A <u>Yes.</u> 11 Q Okay. 12 THE OFFICER: Counsel, could you pull 13 the mic closer to you so I can hear your objections? 14 Thank you. 15 BY MS. JOHNSTON: 16 Q Going back to this page 3, Dr. Vasigh. The 17 third full sentence, it says "Even though anti-trust 18 laws forbid it, hubs are naturally less hospitable to 19 the entry of new airlines." Do you see that? 20 A Page 3 of 14? 21 Q That's correct. 22 A Yes. 23 Q The same paragraph that we were just 24 reading. It's the third sentence. 25 A Yes. I have it. Thank you, ma'am.</p> <p style="text-align: right;">Page 45</p>

<p>1 Q Well, let me ask you -- let me go back real</p> <p>2 quick. Why is it an inevitability that airport hubs</p> <p>3 put out non-competitive and monopolistic routes? Why</p> <p>4 is that inevitable?</p> <p>5 A Practically, don't want lots competition.</p> <p>6 Therefore, from my point -- my understanding airlines</p> <p>7 these days, they have divided the market. They don't</p> <p>8 want to compete head-to-head. Competing head-to-head</p> <p>9 force them to compete based on prices.</p> <p>10 Therefore, in reality, they have divided the</p> <p>11 market. Each airline has power at a special airport.</p> <p>12 As I mentioned that Atlanta dominated by Delta,</p> <p>13 Chicago, American, and United; DFW with American.</p> <p>14 Therefore, in that respect, they are very</p> <p>15 comfortable of not competing. By competing, they need</p> <p>16 to reduce average ticket price, offer more</p> <p>17 frequencies. I'm sure that with travel a lot in the</p> <p>18 last ten years, what's happening: Aircraft are</p> <p>19 becoming more seats, legroom is smaller, frequency.</p> <p>20 Therefore, that's the reason.</p> <p>21 You know, you compete not only based on</p> <p>22 price, you compete based on what quality. If there is</p> <p>23 no competition, you are not concerned about</p> <p>24 competition, you are able to jack up the price and</p> <p>25 reduce what quality of service.</p> <p style="text-align: right;">Page 46</p>	<p>1 aircraft, they go to Atlanta. But most of them, they</p> <p>2 are flying from secondary airport they don't want to</p> <p>3 compete with. Yes.</p> <p>4 Q What was the last phrase? Because --</p> <p>5 A Go to the secondary airport, not the major</p> <p>6 hub. In major hub, you would see only limited number</p> <p>7 of low-cost carriers.</p> <p>8 Q But there are low-cost carriers?</p> <p>9 A Of course, of course. When I say "of</p> <p>10 course," I need to correct myself. You see that again</p> <p>11 I bring a statistics. In Atlanta, 70 percent of the</p> <p>12 market is enjoyed by Delta Airline. The rest 30, by</p> <p>13 many other airline.</p> <p>14 <u>Here, roughly about 80 percent of the market</u></p> <p>15 <u>is dominated by American Airline. Therefore, when we</u></p> <p>16 <u>see that, yes, there are. I didn't say pure monopoly,</u></p> <p>17 <u>but they have monopoly powers.</u></p> <p>18 Q Okay. Where is that data?</p> <p>19 A I can send it to you today or tomorrow.</p> <p>20 Q But it is not in this report; correct?</p> <p>21 A Yes. I -- I said that several times. You</p> <p>22 are correct. It is not in that report. You are</p> <p>23 absolutely correct.</p> <p>24 Q Okay. You go onto say -- well, let me ask</p> <p>25 you. When you say that hubs are naturally less</p> <p style="text-align: right;">Page 48</p>
<p>1 Q Are you aware of American's introduction of</p> <p>2 the Basic Economy seat?</p> <p>3 A Yes.</p> <p>4 Q And what is your understanding of why</p> <p>5 American introduced that seat option for passengers?</p> <p>6 A Passenger demand. We have different type of</p> <p>7 passengers; some of them they are price-sensitive,</p> <p>8 some of them they are time-sensitive, some of them</p> <p>9 they are quality-sensitive. That lower price is</p> <p>10 American trying to bring those passenger that they are</p> <p>11 price-sensitive, rather than taking buses or car, they</p> <p>12 try to take airlines.</p> <p>13 Q So you believe that American created the</p> <p>14 Basic Economy seat because, otherwise, passengers</p> <p>15 would have to take a bus or a train?</p> <p>16 A Or low-cost carrier if they're competing.</p> <p>17 Q Right.</p> <p>18 A Low-cost carrier if that route they're</p> <p>19 competing, yes.</p> <p>20 Q And there are low-cost carriers at hub</p> <p>21 airports; is that correct?</p> <p>22 A Not necessarily -- I should say not</p> <p>23 necessarily. Recently, for example, you see</p> <p>24 Southwest; Southwest was only flying to secondary</p> <p>25 airport. But recent, Southwest, after they bought the</p> <p style="text-align: right;">Page 47</p>	<p>1 hospitable to the entry of new airlines, what support</p> <p>2 or what data do you have to support the statement that</p> <p>3 hub airports are less hospitable to the entry of new</p> <p>4 airlines?</p> <p>5 A Practically, if you want to fly from</p> <p>6 Chicago, you can fly to any part of the world with</p> <p>7 American and United because of network. But if you</p> <p>8 have a low-cost carrier, they have limited flight.</p> <p>9 They cannot compete. Therefore, is not -- the hub is</p> <p>10 not hospitable to a small and low-cost airline.</p> <p>11 Q But why are airport hubs less hospitable?</p> <p>12 A For example, access to gates could be</p> <p>13 limited. Access to departing and arriving slot would</p> <p>14 be limited because majority of them are used by hub</p> <p>15 airline. For example, say, Delta Airline in Atlanta;</p> <p>16 Chicago, American and United. Access to gate, access</p> <p>17 to landing slot, that are limited.</p> <p>18 Q <u>But as you just said, there are low-cost</u></p> <p>19 <u>carriers that are in these airports; right? In these</u></p> <p>20 <u>hub airports?</u></p> <p>21 A Absolutely.</p> <p>22 Q And like you said at the beginning, there is</p> <p>23 a blurring of the lines between the hub-and-spoke and</p> <p>24 the low-cost carrier because of the competitive</p> <p>25 demand; right?</p> <p style="text-align: right;">Page 49</p>

<p>1 A Yes.</p> <p>2 Q And so are airport hubs really less</p> <p>3 hospitable if there are other airlines coming in and</p> <p>4 competing with them?</p> <p>5 A Let me repeat my answer. Access to gate</p> <p>6 limited, access to landing slot are limited, the</p> <p>7 network is limited. Let me add something. Many years</p> <p>8 ago, Boeing moved its headquarter from Seattle to</p> <p>9 Chicago for one reason: Because Chicago was dominated</p> <p>10 by two airlines. They had massive network. Network</p> <p>11 is one of them makes really less hospitable to, what,</p> <p>12 low-cost airline.</p> <p>13 Anyone wants to fly from Chicago, they have</p> <p>14 two choices: American or United. Therefore, if</p> <p>15 you're a small airline, you do not have any chance of</p> <p>16 competing with those. That's the reason Southwest is</p> <p>17 flying from the other airport from Chicago, not</p> <p>18 Chicago Heathrow.</p> <p>19 Q But the airlines do not control the gate</p> <p>20 availability at airports; is that correct?</p> <p>21 A No, airlines are controlling.</p> <p>22 Q The airlines control the gate availability?</p> <p>23 A Please remember, in reality, Delta is the</p> <p>24 major customer at Atlanta, and they are dividing it.</p> <p>25 I had a picture I took when I was in Charlotte, all of</p> <p style="text-align: right;">Page 50</p>	<p>1 Q <u>"Often, airlines face limited competition at</u></p> <p>2 <u>its hub"; is that right? That's what I read?</u></p> <p>3 A Yes.</p> <p>4 Q <u>And we clearly have been talking about this</u></p> <p>5 <u>limited competition. What is limited competition?</u></p> <p>6 <u>How do you quantify limited competition? Is it three</u></p> <p>7 <u>other airlines, five other airlines?</u></p> <p>8 A <u>I refer you to Department of Justice HHI</u></p> <p>9 <u>Index, Herfindahl-Hirschman Index. If HHI is more</u></p> <p>10 <u>than 1800, that's the definition of limited</u></p> <p>11 <u>competition. That's not my definition; that's the</u></p> <p>12 <u>Department of Justice anti- -- Antitrust Division of</u></p> <p>13 <u>Justice Department. HHI is greater than 1800. That's</u></p> <p>14 <u>the definition.</u></p> <p>15 Q <u>And then, in that same sentence, you go onto</u></p> <p>16 <u>say "which allows it," the airline, "to exploit the</u></p> <p>17 <u>opportunity to demand higher fares with less fear of</u></p> <p>18 <u>competition interference."</u></p> <p>19 A Yes.</p> <p>20 Q <u>In making that statement, did you conduct</u></p> <p>21 <u>any comparative analysis of a hub versus a non-hub in</u></p> <p>22 <u>the fares?</u></p> <p>23 A <u>There are slew of article talks about this</u></p> <p>24 <u>element, that airlines are having the higher ticket</u></p> <p>25 <u>prices from hub than non-hub. That is lots of</u></p> <p style="text-align: right;">Page 52</p>
<p>1 the gate was used by American Airline. All of them.</p> <p>2 Therefore, if another airline wants to come to that --</p> <p>3 you know, I have a picture of that.</p> <p>4 Therefore, in that respect, as I mentioned,</p> <p>5 that availability of the gate, availability of landing</p> <p>6 slot, is really one thing that prevent low-cost</p> <p>7 airline to enter the big hub.</p> <p>8 Q So what evidence is there that airlines are</p> <p>9 less hospitable to the entry of new airlines?</p> <p>10 MR. KIRKMAN: Form.</p> <p>11 A The fact that you don't see a rush of low-</p> <p>12 cost airline to major hub. That's the most important</p> <p>13 reason. You don't see that.</p> <p>14 Q In this report, when you say limited</p> <p>15 competition -- I mean, we can go to page 5. Well, I</p> <p>16 guess the sentence begins at the top. It's the first</p> <p>17 paragraph, but the sentence begins on page 4. "Often,</p> <p>18 an airline faces limited competition at its hub." Do</p> <p>19 you see that? The bottom of page 4, going onto page</p> <p>20 5.</p> <p>21 A Yes, the primary reason. You said the 4 --</p> <p>22 is 4 out of 14, you mean?</p> <p>23 Q That's right. That paragraph, but the</p> <p>24 second sentence that leads onto the next page.</p> <p>25 A Yes -- yes. Yes, ma'am.</p> <p style="text-align: right;">Page 51</p>	<p>1 research that have been done in that respect, yes.</p> <p>2 Q <u>But in preparing this report, you did not</u></p> <p>3 <u>consult any of those resources?</u></p> <p>4 A <u>Yes, few of them, yes. It should be the</u></p> <p>5 <u>back. Whatever I did, that is the reference there.</u></p> <p>6 Q <u>On Exhibit B?</u></p> <p>7 A <u>Yes, what -- yes.</u></p> <p>8 Q <u>Okay. So those news articles are what you</u></p> <p>9 <u>referenced in making this statement that airlines</u></p> <p>10 <u>exploit the opportunity to demand higher fares with</u></p> <p>11 <u>less fear of competition interference?</u></p> <p>12 A <u>There are some academic articles that they</u></p> <p>13 <u>look at that front, too.</u></p> <p>14 Q <u>And are those listed as materials reviewed</u></p> <p>15 <u>in your Exhibit B?</u></p> <p>16 A <u>I'm sorry, I don't have the recollection. I</u></p> <p>17 <u>don't remember whatever I put that, because they are a</u></p> <p>18 <u>lot.</u></p> <p>19 Q <u>I mean, we can look at Exhibit B together.</u></p> <p>20 <u>And if you can point me to those academic articles,</u></p> <p>21 <u>that would be helpful.</u></p> <p>22 A <u>I'm sorry, I'm reading one by one --</u></p> <p>23 Q <u>That's fine. Take your time. Take your</u></p> <p>24 <u>time.</u></p> <p>25 A <u>No. I don't have it here.</u></p> <p style="text-align: right;">Page 53</p>

<p>1 Q <u>While you're back there, I want to look at</u> 2 <u>Exhibit C real quick, as well. And this is Exhibit C</u> 3 <u>to your report. Let me know when you're there.</u> 4 A Yes. 5 Q <u>Okay. Do you need a chance to review this</u> 6 <u>exhibit?</u> 7 A Yes. 8 Q <u>Okay.</u> 9 A Yes. 10 Q <u>Okay. Have you reviewed it?</u> 11 A <u>Yes -- yes.</u> 12 Q <u>Okay. Who --</u> 13 A <u>I didn't go one by one, but I know what you</u> 14 <u>mean. Yes.</u> 15 Q <u>Who prepared this exhibit?</u> 16 A <u>I tried to see that -- the whole element of</u> 17 <u>hidden city, I want to know that, does it exist across</u> 18 <u>the board, or that is occasional? Therefore, I tried</u> 19 <u>to check myself to see that are there any type of</u> 20 <u>potential for that.</u> 21 Q <u>So you prepared this --</u> 22 A Yes. 23 Q <u>-- this document?</u> 24 A Yes. 25 MR. KIRKMAN: <u>Let her finish first. I</u></p> <p style="text-align: right;">Page 54</p>	<p>1 is that correct? 2 MR. KIRKMAN: Form. 3 A Please remember that when we talk about 4 revenue management dynamic pricing, airline 5 continuously adjusting their capacity by ticket price. 6 Sometimes, ticket price could be cheaper; sometimes, 7 could be more. But overall, from the hub, average 8 ticket price is more. 9 Q <u>Is Exhibit C your analysis of a hub premium?</u> 10 A <u>Anecdotal evidence, yes.</u> 11 Q Hub premiums are -- I mean, it's a common 12 topic in an airline economy; right? Is that accurate? 13 A Yes. 14 Q And there's a lot of literature out there 15 about hub premiums; is that accurate? 16 A Yes, depending. Sometimes, there are some 17 research that, at a special hub, they recognize 18 there's no hub premium. But general understanding is 19 that -- do you know why we have hub premium? 20 If you don't -- the reason: Hub airport 21 generally dominated by a lot of business traveler. 22 Business traveler, they try to fly there without 23 notice. They are not price-sensitive. Therefore, 24 airline recognize that. 25 I don't want to use the word "taking</p> <p style="text-align: right;">Page 56</p>
<p>1 <u>know it's hard, but just let her finish.</u> 2 BY MS. JOHNSTON: 3 Q <u>When did you prepare this?</u> 4 A <u>I don't have the right recollection of that.</u> 5 I'm sorry. 6 Q <u>Was it this year in 2024?</u> 7 A <u>Maybe. Because continuously, I'm working on</u> 8 <u>that. Maybe, yes.</u> 9 Q <u>Because when we look at this, like, when you</u> 10 <u>look at these columns on the first two pages, there's</u> 11 <u>not a year on these dates of "March 7th." Do you see</u> 12 <u>that?</u> 13 A Yes. 14 Q <u>But these were flight itineraries that you</u> 15 <u>personally pulled, you believe, this year?</u> 16 A Yes. 17 Q Okay. And looking back at your report, I 18 think it's on page 8, the first full paragraph that 19 starts with "Upon reviewing." Do you see that? 20 A Yes, please. Yes. 21 Q Okay. You say "Upon reviewing the attached 22 Exhibit C, it is evidence that there are fluctuations 23 in ticket prices across different cities in Texas when 24 flying via Dallas." My understanding is that this is 25 your example of, your demonstration, of a hub premium;</p> <p style="text-align: right;">Page 55</p>	<p>1 advantage"; airline know that my passenger from hub, 2 majority of them, they are business traveler, they are 3 not paying from their own money. 4 Therefore, they are not price-sensitive, we 5 can charge them higher prices. Therefore, in reality, 6 that's the reason it's creating hub premium. Hub 7 dominated by majority of -- by Fortune 500 companies. 8 MS. JOHNSTON: I'm going to object to 9 non-responsive. 10 What was my question? 11 THE OFFICER: Stand by for readback. 12 MR. KIRKMAN: She can object like that. 13 That doesn't mean she's right. She's got the 14 opportunity to do that, so just because she objects 15 like that doesn't mean she's correct. She has that 16 right. 17 (The officer repeated the record as 18 requested.) 19 BY MS. JOHNSTON: 20 Q In preparing this report and in putting 21 together your Exhibit C, did you consult any of the 22 literature about hub premiums that is out in the 23 market? 24 A No. 25 Q And so throughout your report when you</p> <p style="text-align: right;">Page 57</p>

<p>1 reference hub premiums, like, for example, go back to</p> <p>2 page 8, that same paragraph where you reference</p> <p>3 Exhibit C. Are you there?</p> <p>4 A Yes.</p> <p>5 Q Okay. The second sentence says "Notably,</p> <p>6 the existence of hub premiums in certain markets adds</p> <p>7 an interesting dimension to this case." What do you</p> <p>8 mean by "an interesting dimension"? What does that</p> <p>9 sentence mean?</p> <p>10 A The same thing we have; the difference of</p> <p>11 airfare. If you're traveling a longer dimension --</p> <p>12 distance, if you're paying less, that create another</p> <p>13 dimension for that. If I flying from point A to B, if</p> <p>14 I pay more than from A to B from B to C, create a new,</p> <p>15 really, dimension; what's going on?</p> <p>16 Q And Exhibit C is your attempt to demonstrate</p> <p>17 that point?</p> <p>18 A Yes.</p> <p>19 MS. JOHNSTON: Okay.</p> <p>20 MR. KIRKMAN: How about a short break,</p> <p>21 guys?</p> <p>22 MS. JOHNSTON: That works.</p> <p>23 THE VIDEOGRAPHER: Off the record at</p> <p>24 1:43 p.m.</p> <p>25 (Off the record.)</p> <p style="text-align: right;">Page 58</p>	<p>1 A Yes.</p> <p>2 Q Okay. What evidence is there in this report</p> <p>3 that airlines like American Airlines are exploiting</p> <p>4 the market?</p> <p>5 A The existence of hidden city ticketing is a</p> <p>6 good example.</p> <p>7 MS. JOHNSTON: I'm going to object to</p> <p>8 non-responsive.</p> <p>9 BY MS. JOHNSTON:</p> <p>10 Q Is there evidence in this report, do you</p> <p>11 cite to anything in making this statement that</p> <p>12 airlines exploit the market?</p> <p>13 MR. KIRKMAN: Again, she can take the</p> <p>14 position something's non-responsive, but she's not the</p> <p>15 judge. So you make your own decision.</p> <p>16 MS. JOHNSTON: I object as it's non-</p> <p>17 responsive because it does not answer the question.</p> <p>18 MR. KIRKMAN: It did answer the</p> <p>19 question. You're entitled to your opinion, I'm</p> <p>20 entitled to mine, and he's entitled to his. The point</p> <p>21 is, just because you object doesn't mean it's so.</p> <p>22 That's all I'm trying to say.</p> <p>23 BY MS. JOHNSTON:</p> <p>24 Q Is there any data or evidence in this report</p> <p>25 that demonstrates that American Airlines exploits the</p> <p style="text-align: right;">Page 60</p>
<p>1 THE VIDEOGRAPHER: On the record at</p> <p>2 1:57 p.m.</p> <p>3 BY MS. JOHNSTON:</p> <p>4 Q Dr. Vasigh, I won't belabor this, but I just</p> <p>5 want to go through a few other statements in your</p> <p>6 report.</p> <p>7 A Please.</p> <p>8 Q Going to page 5. Are you there?</p> <p>9 A Yes.</p> <p>10 Q Okay. It's the third paragraph, the second</p> <p>11 full paragraph, about in the middle of the page. It</p> <p>12 starts with "The HCT is undesirable." Do you see</p> <p>13 that?</p> <p>14 A Yes.</p> <p>15 Q And HCT is defined in your report as hidden</p> <p>16 city ticketing; is that right?</p> <p>17 A Yes.</p> <p>18 Q Is that correct?</p> <p>19 A Yes.</p> <p>20 Q Okay. And you say "The hidden city</p> <p>21 ticketing, the HCT, is undesirable to airlines as it</p> <p>22 prevents them from exploiting the market, and</p> <p>23 demanding higher prices that they claim to be entitled</p> <p>24 to by leveraging their market dominance and lower</p> <p>25 competition." Did I read that correctly?</p> <p style="text-align: right;">Page 59</p>	<p>1 market?</p> <p>2 MR. KIRKMAN: Form.</p> <p>3 A Existence of disparity of ticket price.</p> <p>4 Higher ticket price from hub to the spoke and network,</p> <p>5 that is example of exploiting. If you are paying more</p> <p>6 for the shorter distance than the longer distance,</p> <p>7 that's example of exploitation. That's example.</p> <p>8 Generally speaking, if you are flying a</p> <p>9 longer distance, you should be paying shorter</p> <p>10 distance. But doesn't have any rational reason. You</p> <p>11 are flying a shorter distance; you pay more than</p> <p>12 longer distance. That is exploitation.</p> <p>13 Q Okay. So your opinion that American</p> <p>14 Airlines exploits the market is based on the existence</p> <p>15 of hidden city ticketing opportunities?</p> <p>16 A Not only American Airline. Most of the</p> <p>17 airline that they are operating from hub-and-spoke</p> <p>18 network, they have hub premium. They are charging</p> <p>19 higher ticket prices from hub to other destination.</p> <p>20 That is what I meant.</p> <p>21 Q And this Exhibit C that you prepared is your</p> <p>22 demonstration of -- that's the evidence that you</p> <p>23 have --</p> <p>24 A That my previous --</p> <p>25 MR. KIRKMAN: Well, no, don't</p> <p style="text-align: right;">Page 61</p>

<p>1 interrupt.</p> <p>2 Go ahead. It's very difficult for the</p> <p>3 court reporter to get you both talking, so go ahead.</p> <p>4 BY MS. JOHNSTON:</p> <p>5 Q Exhibit C to this report is your attempt to</p> <p>6 evidence or demonstrate the exploitation of the</p> <p>7 market?</p> <p>8 A And my experience.</p> <p>9 Q <u>Okay. But you'll agree with me that, as</u></p> <p>10 <u>looking at this paragraph, there is no data cited or</u></p> <p>11 <u>referenced when you claim that airlines exploit the</u></p> <p>12 <u>market?</u></p> <p>13 A <u>Please allow me --</u></p> <p>14 Q <u>We're on page 5.</u></p> <p>15 A <u>No.</u></p> <p>16 Q <u>You agree with me that there is none?</u></p> <p>17 A <u>No. You are right.</u></p> <p>18 Q Okay. On page 9, this section -- the page</p> <p>19 is indented over with a paragraph, it looks like a</p> <p>20 statement to the right. Do you see that?</p> <p>21 A Yes, I see it.</p> <p>22 Q Where is this from? Is this a quotation?</p> <p>23 A This is general definition of hidden city</p> <p>24 ticketing.</p> <p>25 Q Is this cited from somewhere?</p> <p style="text-align: right;">Page 62</p>	<p>1 Q So because you said it is, it is?</p> <p>2 MR. KIRKMAN: Form --</p> <p>3 A Yes.</p> <p>4 MR. KIRKMAN: Excuse me. Form.</p> <p>5 THE OFFICER: I'm sorry. Your answer</p> <p>6 was yes?</p> <p>7 THE WITNESS: Yes.</p> <p>8 THE OFFICER: Okay.</p> <p>9 THE WITNESS: I apologize.</p> <p>10 BY MS. JOHNSTON:</p> <p>11 Q Turning to page 13.</p> <p>12 A Yes, ma'am.</p> <p>13 Q The top paragraph right under "Conclusions,"</p> <p>14 you say "Hidden city ticketing" -- well, I don't need</p> <p>15 to read that whole first sentence. I'm going to go to</p> <p>16 the second sentence. It says "This is often</p> <p>17 attributed" -- and can we agree that when you say</p> <p>18 "this," it means hidden city ticketing?</p> <p>19 A "Hidden city ticketing can offer a valuable</p> <p>20 opportunity for passenger with limited income to</p> <p>21 travel to their destination"?</p> <p>22 MR. KIRKMAN: No. It's actually the</p> <p>23 third sentence of the first paragraph, not the second.</p> <p>24 THE WITNESS: Oh.</p> <p>25 MS. JOHNSTON: Oh, I'm sorry. I didn't</p> <p style="text-align: right;">Page 64</p>
<p>1 A I don't think so.</p> <p>2 Q So you came up with this?</p> <p>3 A Yes. Or general, this is -- if you see</p> <p>4 that, that's a general definition of hidden city</p> <p>5 ticketing. That's maybe a little bit different</p> <p>6 verbiage.</p> <p>7 Q Okay. If we go to the paragraph right below</p> <p>8 that, in the middle of that paragraph, it says</p> <p>9 "Airlines often charge higher fares for flights that</p> <p>10 originate from or terminate at these major hub</p> <p>11 airports, compared to flights between non-hub</p> <p>12 airports." Do you see that?</p> <p>13 A Yes.</p> <p>14 Q In making this opinion, there is no evidence</p> <p>15 or data cited to this; is that correct?</p> <p>16 A Evidence, we are sitting here.</p> <p>17 Q Right. As we're sitting here, in your</p> <p>18 report.</p> <p>19 A Yes -- yes.</p> <p>20 Q <u>And as you made this opinion in preparing</u></p> <p>21 <u>this report, you did not consult any data or</u></p> <p>22 <u>evidentiary authority; is that correct?</u></p> <p>23 A <u>Ten years of looking at this hidden city</u></p> <p>24 <u>ticketing, and my previous information, knowledge, and</u></p> <p>25 <u>gathering.</u></p> <p style="text-align: right;">Page 63</p>	<p>1 see that.</p> <p>2 MR. KIRKMAN: Beginning "This is</p> <p>3 often."</p> <p>4 MS. JOHNSTON: That's correct.</p> <p>5 THE WITNESS: Oh, okay. The first</p> <p>6 paragraph. Sorry.</p> <p>7 BY MS. JOHNSTON:</p> <p>8 Q You say "This is often attributed to the</p> <p>9 limited competition and lack of alternative options</p> <p>10 available at these airports." Do you see that?</p> <p>11 A Yes -- yes, ma'am.</p> <p>12 Q Okay. And again, in making this statement,</p> <p>13 did you consult any data or make any independent</p> <p>14 analysis, a comparative analysis of some sort, to make</p> <p>15 this statement?</p> <p>16 A That's my gathered for so many years. I'm</p> <p>17 look at that data regularly. I see more and more</p> <p>18 concentration of major airline at hub. The market</p> <p>19 share is getting higher and higher. And this is, for</p> <p>20 example, two plus two equal four; you don't need to</p> <p>21 have data for that.</p> <p>22 That is generally what I have seen for many</p> <p>23 years. Market share of three airlines are getting</p> <p>24 bigger and bigger at major hubs. That's a common</p> <p>25 knowledge.</p> <p style="text-align: right;">Page 65</p>


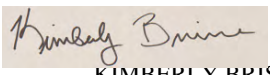
<p>1 Q Okay. So again, because you say it's so, 2 it's so?</p> <p>3 MR. KIRKMAN: Form.</p> <p>4 BY MS. JOHNSTON:</p> <p>5 Q Is that correct? There's no data here or 6 evidence.</p> <p>7 MR. KIRKMAN: Form.</p> <p>8 A Evidence, as I mentioned that the evidence 9 of -- I have many years of experience. I look at, 10 every day, the data. But I have not put in this one. 11 I mentioned that at the beginning that could be the 12 case, but I have the data fully support this.</p> <p>13 Q Okay. And going to the last paragraph on 14 this page 13, the first sentence says "Skiplagged's 15 business and its providing of information relative to 16 hidden city ticketing, HCT, can indeed provide 17 passengers with the means to circumvent the monopoly 18 positions that airlines often hold at certain airport 19 hubs." You see that?</p> <p>20 A Yes, ma'am.</p> <p>21 Q Okay. When you say "certain airport hubs," 22 what airport hubs are you talking about?</p> <p>23 A Generally speaking, top ten or top seven 24 major hub in U.S. For example, here is the fourth 25 largest hub, Atlanta is the biggest hub, Chicago is</p> <p style="text-align: right;">Page 66</p>	<p>1 airline at all?</p> <p>2 MR. KIRKMAN: Form.</p> <p>3 A I don't think -- since it is believe they 4 are harming, that's we are sitting here; otherwise, we 5 don't sit here, if there's not. But the issue is that 6 this harming, if you look at the what are -- are they 7 doing anything against, really, the free competition?</p> <p>8 Our country's based on free competition, 9 free flow of information. Dissemination of 10 information is not illegal. Dissemination of 11 information just try accommodate some people; they 12 don't know this is your option.</p> <p>13 For sure, a airline may not be able to 14 charge that high prices. In that respect, they could 15 not like it, and they don't like it.</p> <p>16 Q Does skipping a segment on a plane cause 17 harm to an airline?</p> <p>18 MR. KIRKMAN: Form.</p> <p>19 A You are asking my opinion? I think no. 20 Because we are flying regularly; you see always an 21 airline overbooking. Therefore, if someone doesn't 22 take the other seat, airline has the opportunity of 23 filling the overbooked passenger.</p> <p>24 In reality, I don't think their complaint is 25 right. He's not flying, there's an empty seat, and</p> <p style="text-align: right;">Page 68</p>
<p>1 the second major hub airport in U.S. Atlanta, 2 Chicago, New York, New York City JFK, Los Angeles, 3 DFW.</p> <p>4 Q And when you say "Skiplagged's business and 5 its providing of information relative to HCT," how do 6 you know about Skiplagged's business?</p> <p>7 A All of the document I read.</p> <p>8 Q Which --</p> <p>9 A That they are providing information to 10 people that you can take this one or the other one.</p> <p>11 Q So those articles that you read?</p> <p>12 A The document that are provided, yes. And 13 the article I read, yes. I believe I mentioned that 14 what they are doing, they are disseminating 15 information and provide choice for passenger. Is it 16 Choice A or Choice B? That's up to you.</p> <p>17 Q Okay. So when you say "circumvent the 18 monopoly positions that airlines often hold at certain 19 hub airports," do you believe that circumventing a 20 rule is wrong?</p> <p>21 MR. KIRKMAN: Form.</p> <p>22 A What do you mean by rule? I don't know. 23 Can you explain what do you mean by rule?</p> <p>24 Q Yeah. Let me back up. So do you believe 25 that skiplagging or hidden city ticketing harms the</p> <p style="text-align: right;">Page 67</p>	<p>1 they fill it up with what? Overbooked passenger. How 2 could that hurt? They get two ticket price: One, the 3 guy that paid at the beginning, another when they are 4 filling up the aircraft with overbooked passenger.</p> <p>5 Q Do you believe that it expends resources or 6 causes challenges when somebody skips a leg or a 7 segment on their flight?</p> <p>8 MR. KIRKMAN: Form.</p> <p>9 A I'm not really aware of any type of really 10 cost or harm. I'm not aware of that.</p> <p>11 Q What about any extreme challenge?</p> <p>12 A Similar to what? I'm sorry.</p> <p>13 Q An extreme -- do you think airlines 14 experience an extreme challenge when somebody misses a 15 flight or skips a leg?</p> <p>16 MR. KIRKMAN: Form.</p> <p>17 A Please remember that if you -- 15 minutes 18 before the flight, if you are not there, they will 19 give your seat to someone else. Therefore -- are you 20 following?</p> <p>21 You have about 15 minutes to get to the 22 aircraft. If within 15 minutes you are not there, 23 your seat is given to someone else. Therefore, they 24 are filling up the aircraft with overbooked passenger.</p> <p>25 MS. JOHNSTON: I'm going to object as</p> <p style="text-align: right;">Page 69</p>

<p>1 non-responsive.</p> <p>2 BY MS. JOHNSTON:</p> <p>3 Q Dr. Vasigh, in your example of when you</p> <p>4 believe it wouldn't harm the airline, that is when</p> <p>5 there are passengers that are waiting to get on the</p> <p>6 plane; is that correct?</p> <p>7 MR. KIRKMAN: Form.</p> <p>8 BY MS. JOHNSTON:</p> <p>9 Q Like, an overbooked flight, in your example?</p> <p>10 MR. KIRKMAN: Form.</p> <p>11 A If that's a -- if I understood your question</p> <p>12 correctly, if the gentleman or lady doesn't show up,</p> <p>13 that seat is allocated to those people that they are</p> <p>14 overbooked for the flight.</p> <p>15 Q And what if they're not overbooked? What if</p> <p>16 the airline does not overbook?</p> <p>17 A Airline would save money because of they are</p> <p>18 using less fuel. You know that the majority of fuel</p> <p>19 of the aircraft is used by, you know, the weight of</p> <p>20 the aircraft.</p> <p>21 Q So a hundred-and-twenty pound person would</p> <p>22 make the aircraft use more fuel?</p> <p>23 A Yes -- oh.</p> <p>24 MR. KIRKMAN: Oh, no, no, no. Go</p> <p>25 ahead.</p> <p style="text-align: right;">Page 70</p>	<p>1 BY MS. JOHNSTON:</p> <p>2 Q Correct?</p> <p>3 A Yes.</p> <p>4 Q Dr. Vasigh, in this report, you make pretty</p> <p>5 bold statements about the state of the airline</p> <p>6 industry, and hub-and-spoke carriers like American, in</p> <p>7 calling them "monopolists" or "engaging monopolistic</p> <p>8 practices, dominating a market, and exploiting</p> <p>9 opportunities." As an economist, you understand what</p> <p>10 these terms mean; right?</p> <p>11 A Yes.</p> <p>12 Q And would you agree with me that they are</p> <p>13 severe or bold statements?</p> <p>14 A Depending how you define bold statement.</p> <p>15 But really, if you are looking at the last ten years,</p> <p>16 the way that we have experienced significant</p> <p>17 consolidation on the airline, quality of service -- of</p> <p>18 course, quality has many different definition.</p> <p>19 Quality of service has been relatively</p> <p>20 diminished. Many years ago, when you were flying, the</p> <p>21 aircraft had about 60 to 70 percent load factor. Load</p> <p>22 factor means the number of passengers in the aircraft,</p> <p>23 respect to the seat. Seventy percent load factor</p> <p>24 means thirty percent seat are empty.</p> <p>25 Right now, majority of aircraft are about 90</p> <p style="text-align: right;">Page 72</p>
<p>1 THE WITNESS: Apparently, American</p> <p>2 Airline did the research many years ago with taking</p> <p>3 one olive from champagne would save them about ten</p> <p>4 million dollars, something, you know? Therefore, I</p> <p>5 want to -- you said hundred-twenty pounds, I'm talking</p> <p>6 about the, really, one olive.</p> <p>7 BY MS. JOHNSTON:</p> <p>8 Q Dr. Vasigh, are you saying, with that olive</p> <p>9 example, that when somebody skips a leg, misses their</p> <p>10 flight, they're saving the airline money?</p> <p>11 A You have to look at both side, you know, to</p> <p>12 be fair with American. You know, one benefit, as I</p> <p>13 said, that -- there are a couple of benefits. One</p> <p>14 benefit is that seat is just given to a overbooked</p> <p>15 passenger, and that would improve the quality of the</p> <p>16 airline, and so forth and so on.</p> <p>17 Even that seat goes empty, that seat of</p> <p>18 empty would have less cost. But again, <u>could create,</u></p> <p>19 <u>I don't know, some type of logistic problem and so</u></p> <p>20 <u>forth.</u> That, I would see that minimum, as far as I</p> <p>21 concern.</p> <p>22 Q But that --</p> <p>23 A Could be, yes.</p> <p>24 Q -- could be a challenge?</p> <p>25 MR. KIRKMAN: Let her finish.</p> <p style="text-align: right;">Page 71</p>	<p>1 percent load factor, seat are smaller, more seat in</p> <p>2 the aircraft, aircraft more fuller. Therefore, you</p> <p>3 are losing the quality.</p> <p>4 Airlines, again, because they don't have</p> <p>5 significant competition, they have been able to, what?</p> <p>6 Reduce the service that they had before. Again,</p> <p>7 service could be -- safety; I'm not talking about</p> <p>8 safety.</p> <p>9 But in the case of, really, cabin amenities;</p> <p>10 cabin amenities gone. You know, many years ago, if</p> <p>11 you remember, you were served food in the aircraft.</p> <p>12 Right now, they are nickeling and diming you for</p> <p>13 everything, you know.</p> <p>14 I paid round-trip ticket from Daytona Beach</p> <p>15 to here; unbelievable, eleven-hundred-dollar. And</p> <p>16 they charged me \$50 for a seat, for the luggage.</p> <p>17 Therefore, that is what we say that service</p> <p>18 quality has been hurt in the past ten years. Because</p> <p>19 of the only correlation you -- is what?</p> <p>20 Consolidation, lack of competition.</p> <p>21 MS. JOHNSTON: I'm going to object to</p> <p>22 non-responsive.</p> <p>23 BY MS. JOHNSTON:</p> <p>24 Q Would you agree with me that accusations or</p> <p>25 claims that an airline is operating a monopolistic</p> <p style="text-align: right;">Page 73</p>

<p>1 company, or they are exploiting the consumer or the 2 opportunity, that those are strong statements? 3 A I don't know how to make it milder, but that 4 is what I see. That is what I feel. The fact that, 5 you know, again, the base on experience of as a 6 passenger, regular traveler, I see significant drop in 7 service. 8 When I was flying from here to Europe, Delta 9 Airline was providing all the domestic connection. 10 Right now, because of consolidation, you know, you 11 have to change, you know, your aircraft. 12 Aircraft all seat are smaller, quality of 13 service is bad. That's my personal observation based 14 on my experience, both as a passenger, both as a 15 writer, both as a teacher, based on the consultant. 16 MS. JOHNSTON: And I appreciate that, 17 but I'm going to object as non-responsive. 18 BY MS. JOHNSTON: 19 Q These terms that you're using to describe 20 the state of the airline industry and hub-and-spoke 21 carriers like American are strong statements, aren't 22 they? 23 MR. KIRKMAN: Form, repetitive, asked 24 and answered. 25 //</p> <p style="text-align: right;">Page 74</p>	<p>1 MR. KIRKMAN: Form. 2 Go ahead. 3 THE WITNESS: I appreciate your 4 question. I believe you asked me several times, more 5 than five or six times. And I mentioned that I have a 6 data; unfortunately, I didn't put that one. Yes. You 7 asked me couple of times, I remember. More than 8 couples of -- yes. But that's a fact. That fact, I 9 can provide you with the data. 10 BY MS. JOHNSTON: 11 Q Okay. Do you believe that your report, as 12 we've reviewed today and as you've submitted in this 13 case, is a reliable source? 14 A Absolutely, yes. 15 MR. KIRKMAN: Objection to form. 16 BY MS. JOHNSON: 17 Q Is a reliable source in opining that 18 skiplagging is justified? 19 A If you're asking my opinion, absolutely yes, 20 but I leave it up to you guys. 21 Q In your world, when you read an article or a 22 publication that does not have any citations or 23 references to data or evidence, would you consider 24 that to be a reliable source? 25 A You are absolutely correct. Not, no.</p> <p style="text-align: right;">Page 76</p>
<p>1 BY MS. JOHNSTON: 2 Q You can answer. 3 A Could you repeat one more time? 4 Q Uh-huh. I'll ask it a different way. For a 5 layperson, not an economist, not an academic, if a 6 layperson were to hear the word "exploitation" or 7 "monopolistic practices" or "dominance of a market," 8 do you believe that those terms would cause an 9 inflammatory reaction? 10 MR. KIRKMAN: Form. 11 A We cannot deny they have monopolistic power 12 as, you know, you have to see what -- you cannot deny 13 they don't have monopolistic power at the hub airport. 14 It is bad or good? I leave it up to the people to 15 think that is good or bad. Good for the airline, bad 16 for the customer. 17 Q But you have not offered any evidence in 18 this report where you make those conclusions -- 19 MR. KIRKMAN: Form -- excuse me. 20 BY MS. JOHNSTON: 21 Q -- that airlines run a monopoly or that they 22 dominate the market or they leverage their dominance 23 to exploit -- 24 MR. KIRKMAN: Form. 25 A I appreciate your --</p> <p style="text-align: right;">Page 75</p>	<p>1 Actually, I admonish my student for that. Thank you 2 very much. You're absolutely correct. 3 Q Do you believe that your opinion that 4 skiplagging is justified is relevant to this case? 5 MR. KIRKMAN: Form. 6 A Justified to what case? 7 Q So you're serving as an expert in this case. 8 A Yes. 9 Q And so I'm assuming that you understand what 10 this case is about? 11 A Of course, yes. 12 Q Okay. And so my question is whether you 13 believe that your report and your testimony is 14 relevant to the issues in this case. 15 MR. KIRKMAN: Form. 16 A I think so. 17 Q In what way? 18 A Legitimacy of this skip lag ticketing, 19 again, depends. You are sitting against me because 20 you are protecting American Airline. I 21 understandable. My position is based on general 22 public. 23 I read one article a 17 years-old kid 24 prevented to fly and to see his parent because the 25 airline recognize that he's going to miss another.</p> <p style="text-align: right;">Page 77</p>

<p>1 This is, generally, from my point of view, is helping 2 those people. They don't have that much money, and 3 they cannot afford to pay very high price to the hub 4 airport to get and see their family. 5 You, me, and him is not going to 6 skiplagging. We are businessman, we are paying the 7 full price. This is really catering for those people 8 with the limited income. They take chances. You 9 cannot take your luggage. You can get kick off the 10 aircraft. 11 This is -- I believe that the core of this 12 situation. Bottom of my heart, I believe in it. I 13 don't accept many cases because I don't believe in it. 14 I accepted this because I believe in it. 15 MS. JOHNSTON: Can we take five 16 minutes? 17 MR. KIRKMAN: Okay. 18 THE VIDEOGRAPHER: Off the record at 19 2:24 p.m. 20 (Off the record.) 21 THE VIDEOGRAPHER: On the record at 22 2:27 p.m. 23 MS. JOHNSTON: Dr. Vasigh, thank you 24 for your time today. 25 THE WITNESS: You're welcome.</p> <p style="text-align: right;">Page 78</p>	<p>1 Q Are these experiences that you had in 2 consulting? You, personally? 3 A Yes -- yes. That's -- yes. Yes. 4 Q Okay. And go to the section called 5 "Referred [sic] Publications." 6 A Yes, sir. 7 Q And what are those? What are the referred 8 [sic] publications? 9 A All of them, they are referred. 10 Q Are those -- 11 A Referee -- that's -- 12 THE OFFICER: Okay. One at a time. Go 13 ahead. 14 THE WITNESS: All of them, they are 15 referee publication. 16 BY MR. KIRKMAN: 17 Q Are they publications that you wrote or 18 reviewed? 19 A No. That is written. There is a paper 20 written by me and Dr. Azadian, methodology and 21 technical determining the value of an aircraft. It 22 was published in Journal of Transportation Research. 23 That was published on November 12, 2020. 24 Q Okay. And all the rest of these, what are 25 those?</p> <p style="text-align: right;">Page 80</p>
<p>1 MS. JOHNSTON: I'll pass the witness. 2 MR. KIRKMAN: I will reserve my 3 questions, except I do want to ask a couple of 4 logistical questions. 5 MS. JOHNSTON: On the record? 6 MR. KIRKMAN: Yes. 7 MS. JOHNSTON: Okay. 8 EXAMINATION 9 BY MR. KIRKMAN: 10 Q If you would turn to Exhibit A, which is the 11 page after your picture, where it says "Experience, 12 Recent Consulting." Do you see that? Go to the next 13 page after your picture. You see where it says 14 "Experience, Recent Consulting"? 15 A Yes. 16 Q And there are a number of bullet points 17 listed. What are those? 18 A Yes. 19 Q What are those, just generally? 20 A Do you want the second one, you mean? 21 Q No. Just all of the bullet points under 22 "Experience, recent consulting," what are those? 23 A That's -- I don't know I'm able to tell was 24 a lawsuit. A lawyer brought a legal lawsuit against 25 one of the airline. I representing the defendant.</p> <p style="text-align: right;">Page 79</p>	<p>1 A Except -- yes. The other one is -- the 2 second one -- 3 Q I don't want them individually. Just 4 generally, what are they? 5 A All of them, they are publish in academic 6 refereed publication. 7 Q And that you were involved in? 8 A That's right, yes. All of -- each of them 9 are my papers, co-author or alone, in referee 10 publication. 11 Q And do they contain your analysis of data 12 and information that you analyzed in the cases where 13 you wanted to prepare these reports? 14 A Yes -- yes. Absolutely, yes. When we say 15 referee publication, is not something you write in the 16 New York Times. That goes to series of evaluation. 17 They check your data. They check your methodology. 18 They reject or they publish. 19 Q Okay. Then go to the section a little 20 further in that says "Other Publications." 21 A After "Books and Chapters"? Yes, I got 22 that. 23 Q And what are those? Just generally, what 24 are all of those other publications that you've 25 listed?</p> <p style="text-align: right;">Page 81</p>

<p>1 A Please remember, this highlighted "Market 2 post of [sic] take off," it was published to Harvard 3 Business Review. "Foundation of Aircraft" [sic] is 4 published on Airline Solution [sic]. 5 Those are the -- they are published in non- 6 academic, not referee. Those are journal. For 7 example, Harvard Business Review is not referee 8 journal. This published there. 9 Q Are these publications that you were 10 involved with? 11 A Yes. That's my publication. Some of them 12 are solely, some of them with my co-author. 13 Q And the next page, "Theses at Ph.D. Level." 14 A Yes. 15 Q Are these theses that you wrote and were 16 involved in? 17 A My Ph.D. student, they are taking -- they 18 write their thesis. I'm a supervisor. I'm the 19 director of thesis. That's right. 20 Q Okay. And in your business, is it normal, 21 is it standard, for you to review, rely, and 22 essentially understand various data? 23 A Yes. 24 Q And do you keep that data within your 25 experience and knowledge?</p> <p style="text-align: right;">Page 82</p>	<p>1 A No. 2 MS. JOHNSTON: I'll pass the witness. 3 THE WITNESS: Okay. 4 THE OFFICER: Before we go off the 5 record, will this witness read and sign? I know he's 6 a expert, but -- 7 MR. KIRKMAN: Yeah. Read and sign, and 8 send it to me. 9 THE OFFICER: Okay. 10 MR. KIRKMAN: And I'll give you my 11 card, if you want to -- 12 THE OFFICER: Okay. Great. 13 And then, Ms. Johnston, would you like 14 a copy of the transcript? 15 MS. JOHNSTON: Please. 16 THE OFFICER: Okay. 17 Mr. Harris, you want to get your 18 orders? 19 THE VIDEOGRAPHER: Do you need a video? 20 MR. KIRKMAN: I do not. 21 THE VIDEOGRAPHER: Okay. 22 THE OFFICER: Okay. We can go off the 23 record. 24 THE VIDEOGRAPHER: Off the record at 25 2:34 p.m.</p> <p style="text-align: right;">Page 84</p>
<p>1 A Yes. 2 Q And do you use that data and your experience 3 and your knowledge when you prepare opinions? 4 A Yes. 5 Q And do you use that data and experience and 6 knowledge when you prepared this opinion? 7 A Yes. 8 MR. KIRKMAN: I will reserve the 9 balance of my questions until trial. 10 MS. JOHNSTON: I just have one follow- 11 up. 12 EXAMINATION 13 BY MS. JOHNSTON: 14 Q <u>Dr. Vasigh, this list that Mr. Kirkman just</u> 15 <u>went through of different publications or journals</u> 16 <u>that you've written in, in preparing this report, did</u> 17 <u>you refer to any of those in particular?</u> 18 A <u>As I mentioned that when I prepared and</u> 19 <u>wrote report, I'm using 40 years of experience of</u> 20 <u>writing, going on TV interview, and so forth and so</u> 21 <u>on. It is not just taking something. That's</u> 22 <u>culmination of my knowledge gathered for 40 years.</u> 23 Q <u>Have you -- in any of these publications or</u> 24 <u>speaking engagements, are any of these related to</u> 25 <u>hidden city ticketing?</u></p> <p style="text-align: right;">Page 83</p>	<p>1 (Signature reserved.) 2 (Whereupon, at 2:34 p.m., the 3 proceeding was concluded.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 85</p>

<p>1 CERTIFICATE OF DEPOSITION OFFICER</p> <p>2 I, MAGGIE BERRY, the officer before whom the</p> <p>3 foregoing proceedings were taken, do hereby certify</p> <p>4 that any witness(es) in the foregoing proceedings,</p> <p>5 prior to testifying, were duly sworn; that the</p> <p>6 proceedings were recorded by me and thereafter reduced</p> <p>7 to typewriting by a qualified transcriptionist; that</p> <p>8 said digital audio recording of said proceedings are a</p> <p>9 true and accurate record to the best of my knowledge,</p> <p>10 skills, and ability; that I am neither counsel for,</p> <p>11 related to, nor employed by any of the parties to the</p> <p>12 action in which this was taken; and, further, that I</p> <p>13 am not a relative or employee of any counsel or</p> <p>14 attorney employed by the parties hereto, nor</p> <p>15 financially or otherwise interested in the outcome of</p> <p>16 this action.</p> <p>17 Dated: June 21, 2024</p> <p>18 </p> <p>19 MAGGIE BERRY</p> <p>20 Notary Public in and for the</p> <p>21 State of Texas</p> <p>22</p> <p>23 [X] Review of the transcript was requested.</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 86</p>	<p>1 William L. Kirkman</p> <p>2 billk@kirkmanlawfirm.com</p> <p>3 June 21, 2024</p> <p>4 RE: American Airlines, Inc. v. Skiplagged Inc.</p> <p>5 6/6/2024, Bijan Vasigh, Ph.D. (#6746333)</p> <p>6 The above-referenced transcript is available for</p> <p>7 review.</p> <p>8 Within the applicable timeframe, the witness should</p> <p>9 read the testimony to verify its accuracy. If there are</p> <p>10 any changes, the witness should note those with the</p> <p>11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of</p> <p>13 Deponent and Errata and return to the deposing attorney.</p> <p>14 Copies should be sent to all counsel, and to Veritext at</p> <p>15 errata-tx@veritext.com.</p> <p>16 Return completed errata within 30 days from</p> <p>17 receipt of testimony.</p> <p>18 If the witness fails to do so within the time</p> <p>19 allotted, the transcript may be used as if signed.</p> <p>20</p> <p>21</p> <p>22 Yours,</p> <p>23 Veritext Legal Solutions</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 88</p>
<p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, KIMBERLY BRISCOE, do hereby certify that</p> <p>3 this transcript was prepared from the digital audio</p> <p>4 recording of the foregoing proceeding, that said</p> <p>5 transcript is a true and accurate record of the</p> <p>6 proceedings to the best of my knowledge, skills, and</p> <p>7 ability; that I am neither counsel for, related to,</p> <p>8 nor employed by any of the parties to the action in</p> <p>9 which this was taken; and, further, that I am not a</p> <p>10 relative or employee of any counsel or attorney</p> <p>11 employed by the parties hereto, nor financially or</p> <p>12 otherwise interested in the outcome of this action.</p> <p>13 Dated: June 21, 2024</p> <p>14 </p> <p>15 KIMBERLY BRISCOE</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 87</p>	<p>1 American Airlines, Inc. v. Skiplagged Inc.</p> <p>2 Bijan Vasigh, Ph.D. (#6746333)</p> <p>3 E R R A T A S H E E T</p> <p>4 PAGE _____ LINE _____ CHANGE _____</p> <p>5 _____</p> <p>6 REASON _____</p> <p>7 PAGE _____ LINE _____ CHANGE _____</p> <p>8 _____</p> <p>9 REASON _____</p> <p>10 PAGE _____ LINE _____ CHANGE _____</p> <p>11 _____</p> <p>12 REASON _____</p> <p>13 PAGE _____ LINE _____ CHANGE _____</p> <p>14 _____</p> <p>15 REASON _____</p> <p>16 PAGE _____ LINE _____ CHANGE _____</p> <p>17 _____</p> <p>18 REASON _____</p> <p>19 PAGE _____ LINE _____ CHANGE _____</p> <p>20 _____</p> <p>21 REASON _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 Bijan Vasigh, Ph.D. Date _____</p> <p>25</p> <p style="text-align: right;">Page 89</p>

1 American Airlines, Inc. v. Skiplagged Inc.

2 Bijan Vasigh, Ph.D. (#6746333)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Bijan Vasigh, Ph.D., do hereby declare that I

5 have read the foregoing transcript, I have made any

6 corrections, additions, or changes I deemed necessary as

7 noted above to be appended hereto, and that the same is

8 a true, correct and complete transcript of the testimony

9 given by me.

10

11 _____

12 Bijan Vasigh, Ph.D. Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

16

17

18

19 _____
NOTARY PUBLIC

20

21

22

23

24

25

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24 (Page 90)

NOTIFICATION RE RETURN OF ORIGINAL

DEPOSITION OF BIJAN VASIGH PhD

Volume 1 of 1

June 6, 2024

The original deposition was not returned to
the deposition officer by 7/22/2024;

If returned, the attached Changes and Signature
page contains any changes and the reasons therefor;

If returned, the original deposition was sent to
Julia Wisenberg, Custodial Attorney;

That \$_N/A_____ is the deposition officer's charges
to the PLAINTIFF for preparing the original
deposition transcript and any copies of exhibits.

That a copy of this notification was sent to all
parties shown herein this 2nd day of August,
2024.

Sincerely,

Veritext Legal Solutions

Veritext Registration No. 571

300 Throckmorton Street, Suite 1600

Fort Worth, Texas 76102

(800) 336-4000

Page 1

Exhibit A-3

Withheld Due to Confidential Information
Pending Motion for Leave to File Under Seal

Exhibit A-4

CONFIDENTIAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

Plaintiff

vs.

) C.A. No. 4:23-CV-00860-P

SKIPLAGGED, INC.,

Defendant

CONFIDENTIAL

DEPOSITION OF DARIN LEE, PH.D.

THURSDAY, JULY 11, 2024

9:04 A.M. - 1:37 P.M.

GREENBERG TRAURIG LLP

ONE INTERNATIONAL PLACE

BOSTON, MASSACHUSETTS

REPORTED BY: Sandra A. Deschaine, CSR, RPR,
CLR, RSA
Job No. TX6782850

Page 1

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1 APPEARANCES:	1 JULY 11, 2024
2	2
3 ON BEHALF OF THE PLAINTIFF AND THE WITNESS:	3 9:04 a.m.
4 GREENBERG TRAURIG LLP	4
5 Nathan Muyskens, Esquire	5 Deposition of Darin N. Lee,
6 2101 L Street, N.W.	6 Ph.D., held at Greenberg Traurig LLP, One
7 Washington, DC 20037	7 International Place, Boston, Massachusetts,
8 202.331.3164	8 pursuant to Notice, before Sandra A.
9 nathan.muyskens@gtlaw.com	9 Deschaine, a Shorthand Reporter, Registered
10	10 Professional Reporter, Certified LiveNote
11 ON BEHALF OF DEFENDANT:	11 Reporter, and Notary Public in and for the
12 CONDON TOBIN SLADEK THORNTON NERENBERG PLLC	12 Commonwealth of Massachusetts.
13 Aaron Z. Tobin, Esquire	13
14 8080 Park Lane, Suite 700	14
15 Dallas, Texas 75231	15
16 214.265.3851	16
17 atobin@condontobin.com	17
18	18
19 Also Present: Gayle Ashton, videographer	19
20 Jeremy Ballew, Esquire	20
21 in-house counsel for American	21
22 Airlines	22
23	23
24	24
25	25
Page 2	Page 4
1 INDEX	1 PROCEEDINGS
2 EXAMINATION PAGE	2 THE VIDEOGRAPHER: Good morning.
3 Darin N. Lee, Ph.D.	3 We are now on the record. This is the
4 By Mr. Tobin 6	4 videographer speaking, Gayle Ashton,
5	5 with Veritext Legal Solutions. Today's
6 EXHIBITS	6 date is July 11, 2024, and the time is
7	7 9:03 a.m. We are here at Greenberg
8 EXHIBIT DESCRIPTION PAGE	8 Traurig, 1 International Place, Boston,
9 Exhibit 1 Expert Rebuttal Report 6	9 Massachusetts, to take the video
10 Exhibit 2 Hidden city travel and 122	10 deposition of Darin N. Lee, Ph.D., in
11 its impact on	11 the matter of American Airlines, Inc.,
12 passengers, implications	12 versus Skiplagged, Inc.
13 for the traveling	13 Would counsel please introduce
14 public, Dr. Bija Vasigh	14 themselves for the record.
15	15 MR. TOBIN: Aaron Tobin for
16	16 Defendant Skiplagged.
17	17 MR. MUYSKENS: Nathan Muyskens for
18	18 American Airlines.
19	19 THE VIDEOGRAPHER: Would the court
20	20 reporter, Sandra Deschaine, please swear
21	21 in the witness.
22	22 DARIN N. LEE, PH.D., deponent,
23	23 having first been satisfactorily identified
24	24 by the production of his Massachusetts
25	25 driver's license and duly sworn by the Notary
Page 3	Page 5

<p>1 Public, was examined and testified as 2 follows: 3 (Exhibit 1, Expert Rebuttal Report of Darin 4 N. Lee, Ph.D., marked for identification.) 5 EXAMINATION 6 BY MR. TOBIN: 7 Q. Please state your full legal name? 8 A. Darin, D-a-r-i-n, Norman, L-e-e. 9 Q. Dr. Lee, my name is Aaron Tobin. 10 You understand I represent the defendant 11 Skiplagged in this lawsuit that American 12 Airlines has brought? 13 A. I do. 14 Q. Okay. And I believe today was the 15 first time we had a chance to meet; is that 16 correct? 17 A. That's correct. 18 Q. I assume -- I've reviewed your 19 report and your resumé and your CV, and it 20 sounds like you're experienced in this. I 21 assume you've had your deposition taken a 22 number of times? 23 A. I have, yes. 24 Q. And do you need me to go over any 25 of the rules or you kind of understand the</p> <p style="text-align: right;">Page 6</p>	<p>1 issued in this case along with the appendix 2 that's attached to the report? 3 A. It does. I would say that the 4 quality of the printing on some of the 5 exhibits is a little hard to read, but yeah, 6 it is. 7 Q. Okay. If you have trouble reading 8 anything or figuring it out today, let me 9 know and we'll stop and try to see if we can 10 fix that for you. Okay? 11 A. Okay. 12 Q. Does that contain all of the 13 opinions that you intend to offer in this 14 case? 15 A. As I sit here currently, yes. 16 Q. Okay. Are you planning on 17 offering any opinions that are not contained 18 in that exhibit as you sit here today? 19 A. I don't expect to, but I haven't 20 had any discussions as to what I'm going to 21 be asked to testify at trial, if I'm asked to 22 testify. 23 Q. Okay. Are there any corrections 24 or omissions or mistakes in your report that 25 you need to address right now?</p> <p style="text-align: right;">Page 8</p>
<p>1 format of what's going to happen today? 2 A. I understand the rules as I've 3 been deposed in the past. 4 Q. Okay. Great. 5 One thing I'll tell you, because 6 all lawyers are different, I am very lax 7 about breaks. If you want to take a break 8 for any time, any reason, you just let me 9 know and we'll do it. 10 The only thing I would ask if I've 11 got a question on the table, just please 12 finish answering the question and then we're 13 good to go. Okay? 14 A. Sounds good. 15 Q. Same thing about lunch. I'm 16 really at your discretion. If you want to 17 work through lunch -- I don't anticipate 18 we're going to be here all day, but if you 19 want to work through lunch or grab a quick 20 lunch or take a longer, more leisurely lunch, 21 your preference. I really don't care. 22 A. Sounds good. 23 Q. So I placed in front of you 24 Exhibit 1. Does that appear to be a true and 25 accurate copy of your report that you've</p> <p style="text-align: right;">Page 7</p>	<p>1 A. Actually, I saw one typo last 2 night as I was reading the report. It was 3 just very, very minor, but on paragraph 11, I 4 think it was -- 5 Q. Paragraph 11, you said? 6 A. I think it was paragraph 11 where 7 it said "20 years ago." So it's on the 8 second line of the paragraph 11, it says, "As 9 shown in Exhibit 2, 20 years ago," that 10 should say 30 years ago. It's referring to 11 the first date of appointment, which is 1993, 12 2023 to 1993. 30 years not 20 years. 13 Q. That's helpful. Thank you. 14 Are there any other corrections, 15 mistakes or omissions that need to be made to 16 your report? 17 A. Not that I'm aware of, no. 18 Q. I want to -- and we'll get into 19 more of the details of your report. But I 20 want to just, at a high level, kind of make 21 sure I understand where you're coming from 22 and of course my client doesn't necessarily 23 agree with everything you're saying, but I at 24 least want to understand what your opinions 25 are. So we'll just take it at high level</p> <p style="text-align: right;">Page 9</p>

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<p>1 first. Okay?</p> <p>2 A. Sure.</p> <p>3 Q. If I understand some of the points</p> <p>4 you're making in your opinion, is that if my</p> <p>5 client were to go away and not exist, you do</p> <p>6 not believe that that would lead the market</p> <p>7 to being any more susceptible to monopoly or</p> <p>8 monopolistic behaviors by American Airlines;</p> <p>9 is that fair?</p> <p>10 A. Well, I'm not sure I agree with</p> <p>11 the premise of your question, in that I might</p> <p>12 assume that they already have some type of</p> <p>13 monopolistic power. You know, so as I state</p> <p>14 fairly clearly in my report, my report is</p> <p>15 only responding to primarily the report of</p> <p>16 Dr. Vasigh, and I think he makes some</p> <p>17 incorrect assumptions about how the airline</p> <p>18 industry operates and the competitive state</p> <p>19 of it, and for the reasons I outline in my</p> <p>20 report, I think those assumptions are</p> <p>21 incorrect.</p> <p>22 Q. Okay.</p> <p>23 MR. TOBIN: Objection,</p> <p>24 nonresponsive.</p> <p>25 BY MR. TOBIN:</p> <p style="text-align: right;">Page 10</p>	<p>1 A. There's a whole set of what I</p> <p>2 refer to as lower-cost carriers --</p> <p>3 Q. Okay.</p> <p>4 A. -- which includes low-cost</p> <p>5 carriers, ultra-low-cost carriers as well as</p> <p>6 lower cost and network carriers.</p> <p>7 Q. Okay. And you believe the</p> <p>8 entrance of the market of those types of</p> <p>9 carriers has made the industry more</p> <p>10 competitive.</p> <p>11 Am I understanding that</p> <p>12 correctly?</p> <p>13 A. Well, it's a combination of the</p> <p>14 expansion of those carriers, of the entry of</p> <p>15 those carriers, the addition of new carriers,</p> <p>16 and the competitive response they've elicited</p> <p>17 from network carriers.</p> <p>18 Q. And you believe all those things</p> <p>19 has made the industry more competitive over</p> <p>20 the years?</p> <p>21 A. Oh, that definitely is a huge part</p> <p>22 of it, yes.</p> <p>23 Q. Okay. And so, I think if I</p> <p>24 understand your point, is that if the</p> <p>25 hidden-city ticketing is not around, the</p> <p style="text-align: right;">Page 12</p>
<p>1 Q. My question, though, is just</p> <p>2 generally -- let me ask you, if Skiplagged</p> <p>3 were not to exist, do you believe that that</p> <p>4 could lead the market to being more</p> <p>5 susceptible to monopolistic-type behavior?</p> <p>6 A. I don't think so, no.</p> <p>7 Q. Okay. And if I understand in your</p> <p>8 report kind of some of the basis for what</p> <p>9 you're saying, it's because you believe the</p> <p>10 industry has become more competitive over the</p> <p>11 years; is that fair?</p> <p>12 A. Well, I -- the data demonstrated</p> <p>13 that it has been. So, I mean, all of the</p> <p>14 indicia of competition in terms of things</p> <p>15 like prices, output, the industry has become</p> <p>16 incredibly competitive, that's correct.</p> <p>17 Q. You highlight part of the reason I</p> <p>18 think you believe that the industry has</p> <p>19 become more competitive is because you</p> <p>20 believe these low-cost carriers and these --</p> <p>21 I'm sorry -- what's the term? -- ultra low</p> <p>22 cost, or -- there's another level of low-cost</p> <p>23 carriers behind just the low-cost --</p> <p>24 A. There's a --</p> <p>25 Q. -- carriers?</p> <p style="text-align: right;">Page 11</p>	<p>1 consumer has a number of options.</p> <p>2 Is that one of the points you're</p> <p>3 trying to make?</p> <p>4 A. You know, again, I would defer to</p> <p>5 my report, and my report is responding to</p> <p>6 some claims about the nature of competition</p> <p>7 in Dr. Vasigh's report, and I don't think --</p> <p>8 he didn't see -- the availability of</p> <p>9 hidden-city ticketing is needed to ensure</p> <p>10 that the industry is competitive.</p> <p>11 Q. Okay. And I understand. I've</p> <p>12 read your report. I promise I have.</p> <p>13 But this is my chance to kind</p> <p>14 understand and discover what you might be</p> <p>15 talking about at trial. So I'm going to ask</p> <p>16 you some questions that deal with your</p> <p>17 report, but, you know, not everything is</p> <p>18 going to come verbatim from your report so I</p> <p>19 need to understand what you're going to say</p> <p>20 at trial. Is that fair?</p> <p>21 A. I understand.</p> <p>22 (Jeremy Ballew entered the deposition.)</p> <p>23 BY MR. TOBIN:</p> <p>24 Q. So you say that all of these</p> <p>25 things you talked about has led to the</p> <p style="text-align: right;">Page 13</p>

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<p>1 industry becoming more competitive, and I 2 just want to make sure I understand because 3 that -- you believe that gives the consumer 4 choices, right? 5 A. Choices are an important part of 6 competition. 7 Q. And you believe, as we sit here 8 right now, the consumer does have choices? 9 A. Yes, they have choices. 10 Q. And so if hidden-city ticketing 11 options are not around, if I understand, part 12 of your point is that the consumer could 13 choose to fly on a low-cost carrier, correct? 14 A. Consumers have the option to fly 15 on low-cost carriers, that's correct. 16 Q. Okay. Or they can fly on an 17 ultra-low-cost carrier, right? 18 A. They can fly on a ultra-low-cost 19 carrier. 20 Q. They could shop the market and 21 possibly fly on another carrier, another 22 major carrier other than American Airlines, 23 right? 24 A. There's many choices, yes. 25 Q. Okay. They could try to time the</p> <p style="text-align: right;">Page 14</p>	<p>1 that it's impossible for you or impossible 2 for me to predict how each of those consumers 3 would react or what choices they would make 4 if hidden-city ticketing is not around, 5 correct? 6 A. Well, I think that if you were 7 asking me if I could tell you what each 8 individual would do, I can't put myself in 9 the shoes of each individual. I can tell you 10 what I would do, and I can tell you what a 11 lot of people that travel would do. But I 12 can't sit here and tell you that I know what 13 each individual person would choose. 14 Q. Okay. Now, I want to make sure I 15 understand kind of the breadth of your 16 opinion and how far you are going, so to 17 speak. 18 I don't think you're opining on 19 whether there is actually a market for 20 hidden-city ticketing or not; is that 21 correct? 22 A. Are you referring to, like, a 23 relevant market and antitrust framework, is 24 that what you're -- 25 Q. Well, I'm -- not in a legal sense,</p> <p style="text-align: right;">Page 16</p>
<p>1 market because ticketing prices even for a 2 specific carrier vary day-to-day or 3 month-to-month, correct? 4 A. They vary, that's correct. 5 Q. So they can try to time the market 6 if they wanted to, right? 7 A. I suppose they could. 8 Q. And they don't have to fly, they 9 could take another mode of transportation or 10 just choose not to fly all together. Is that 11 part of the choices that you believe the 12 consumer has? 13 A. Not flying is always an option. 14 Q. And I think, from your years of 15 experience, you at least understand that, you 16 know, that's a consumer-specific decision, 17 depending on what's going on in their life, 18 the timing of their events or the budget that 19 they're on, it's very individualistic as to 20 how each of those consumers would go through 21 that decision-making process. Fair? 22 A. I would generally agree that many 23 travel choices are made at the individual 24 level. 25 Q. And so I think you would agree</p> <p style="text-align: right;">Page 15</p>	<p>1 just in a lay sense. 2 Maybe I'll just ask you. 3 Do you believe -- I mean, you've 4 seen that my client actually has sales, 5 right? 6 A. I purchased a ticket myself, so 7 they do have sales, yes. 8 Q. All right. And hidden-city 9 ticketing is not something that's brand new. 10 It's been around for a long time, the concept 11 at least, right? 12 A. That is correct, it's been around 13 for a while. 14 Q. Okay. And if I represent to you 15 that my client didn't even start doing 16 business of any form until 2013, is at least 17 your understanding that hidden-city ticketing 18 or the practice has been around before my 19 client started doing business in 2013? 20 A. I understand that hidden-city 21 ticketing has been around since prior to 22 2013. 23 Q. Okay. And you understand that my 24 client is not the only one in the market of 25 hidden-city ticketing, there are other</p> <p style="text-align: right;">Page 17</p>

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<p>1 businesses that practice -- either similar 2 practices or akin practices to what my client 3 does. You understand that at least? 4 A. I'm aware of at least one other 5 website that promotes hidden-city ticketing, 6 though I don't think they do on American 7 anymore. 8 Q. So at least you understand, you 9 may not agree with the practice, but you at 10 least understand there's a market out there 11 for hidden-city ticketing? 12 A. I just don't know what you mean 13 when you refer to it as a market. I know 14 that there's websites out there that promote 15 hidden-city ticketing, so I would agree with 16 the point that there are -- you're not the 17 only one out there that's doing it. 18 Q. And you'd at least agree that 19 there are consumers out there that are 20 consuming hidden-city ticketing services 21 provided by my client and others? 22 A. Yes, there are consumers who have 23 purchased hidden-city ticketing, yes. 24 Q. What did you do to prepare for 25 your deposition today?</p> <p style="text-align: right;">Page 18</p>	<p>1 THE WITNESS: And I chatted with 2 him for a few minutes. 3 BY MR. TOBIN: 4 Q. Who was that? 5 A. Eric Amel. 6 Q. How do you spell the last name? 7 A. A-m-e-l. 8 Q. Is Mr. Amel in your office? 9 A. He is, yes. 10 Q. And were you individually retained 11 to give a report or was a business or a firm 12 that you work with retained? 13 A. Compass Lexecon, which is my 14 employer, was retained. 15 Q. Did you meet or discuss 16 preparations for your deposition with anyone 17 else besides Mr. Amel and your counsel? 18 A. No, I did not. 19 Q. How long did you spend reviewing 20 documents to prepare for your deposition 21 today? 22 A. Well, see, today is what -- today 23 is Thursday. I spent maybe 20 hours in 24 total, Monday, Tuesday, Wednesday. 25 Q. How long have you been with</p> <p style="text-align: right;">Page 20</p>
<p>1 A. I reviewed my report. I read 2 Dr. Vasigh's report, Dr. Phiroz's report, and 3 I met with counsel yesterday for maybe 90 4 minutes. 5 Q. Did you review any other documents 6 or data for your preparation of your 7 deposition today? 8 A. I looked at the Complaint. I, you 9 know, I went through my report and looked at, 10 you know, the exhibits and some of the 11 underlying information. 12 Q. Okay. Anything else? 13 A. I think that, as I sit here right 14 now, that's pretty much -- I reviewed my 15 report and the materials I relied upon. 16 Q. Now, I don't want to know anything 17 you talked to with your counsel. But other 18 than that, did you talk to anybody else in 19 preparing for your deposition today? 20 A. I have one individual that 21 assisted me in my direct -- worked under my 22 direction in my report and I chatted -- 23 THE STENOGRAPHER: Sir, you're 24 kind of dying out at the end. 25 "And I chatted with"?</p> <p style="text-align: right;">Page 19</p>	<p>1 Compass Lexecon? 2 A. I believe I joined Compass Lexecon 3 in February of 2011. 4 Q. And pardon these questions, but I 5 ask of every witness I ever depose. 6 Have you ever filed for bankruptcy 7 or any type of insolvency proceeding? 8 A. I have not. 9 Q. Have you ever been charged, 10 arrested or convicted of a crime other than a 11 minor traffic offense? 12 A. I have not. 13 Q. Are you on any medications or do 14 you have any conditions today that would 15 affect your ability to give truthful 16 testimony? 17 A. I'm not. 18 Q. Are you on any medications or do 19 you have any conditions that would affect 20 your memory at all? 21 A. I take a statin, but that's it. 22 Q. And it doesn't affect your recall? 23 A. Not that I -- not that I know of. 24 Q. When were you retained? 25 A. To the best of my recollection, as</p> <p style="text-align: right;">Page 21</p>

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<p>1 I sit here today, sometime in earlier May. 2 Q. And were you retained by a law 3 firm or by American Airlines? When I say 4 "you," you understand I'm talking about the 5 Compass? 6 A. I believe our retention letter is 7 with American Airlines, but it -- you know, 8 largely the reach out came from the 9 attorneys. 10 Q. Okay. Was that Greenberg Traurig 11 or Kelly Hart? 12 A. Could have been both. I mean, it 13 could have been -- I think the initial call 14 had both Kelly Hart and Greenberg. 15 Q. What is your rate? 16 A. \$1040 per hour. 17 Q. What is Mr. Amel's rate? 18 I'm sorry. Yeah, Mr. Amel. 19 A. I don't know it off my heart, but 20 I suspect it is in the maybe 750-ish range 21 per hour. 22 Q. Did anyone work on this project 23 that you're here to testify other than you 24 and Mr. Amel? 25 A. No, we were the only two.</p> <p style="text-align: right;">Page 22</p>	<p>1 correct? 2 A. That is correct. 3 Q. And how many times have you been 4 retained by American Airlines? 5 A. Over what period of time? 6 Q. Ever since you started doing this? 7 A. I couldn't tell you sitting here 8 right now. I'd defer to my CV, which lists 9 all of the engagements I provided testimony 10 in. But I've been retained by American on 11 multiple occasions, as with other airlines. 12 Q. More than ten times? 13 A. Over the course of my career? 14 Q. Yes. 15 A. Yes. 16 Q. More than 25 times? 17 A. I would need to go and count, but 18 it's possible. 19 Q. Your CV is attached as -- or is 20 attached to Exhibit 1, correct? 21 A. It is. 22 Q. And your prior expert retention is 23 part of that, correct? 24 A. It is. 25 Q. So every time you've been retained</p> <p style="text-align: right;">Page 24</p>
<p>1 Q. How much have you billed so far? 2 A. I don't know, as I sit here right 3 now. 4 Q. Do you know how much you collected 5 so far? 6 A. I don't know as I here today right 7 now. 8 Q. Is it over \$50,000? 9 A. Collected? 10 Q. I'm sorry. Charged. 11 A. Over 50,000. I suspect it is, 12 yes. 13 Q. Is it over a hundred thousand 14 dollars? 15 A. Probably. 16 Q. Is it over \$250,000? 17 A. I don't think so. 18 Q. Do your rates change at all 19 depending on whether you give testimony or is 20 the rate static? 21 A. My rate is the same regardless of 22 testimony or not. 23 Q. Okay. Now, you've been retained 24 by American Airlines -- you or your firm have 25 been retained by American Airlines before,</p> <p style="text-align: right;">Page 23</p>	<p>1 by American Airlines, you or someone you're 2 working on behalf of is reflected in 3 Exhibit 1; is that fair? 4 A. Well, I think Exhibit 1 lists 5 testimony, and so there are instances where I 6 may have been retained by a client to provide 7 nontestifying consulting, but in terms of 8 engagements where I've offered expert 9 testimony, my CV is quite complete, I 10 believe. 11 Q. I'm looking at page A-6, which is 12 Appendix Exhibit 1. 13 Do you see that? 14 A. A-6? 15 Q. Yes. 16 A. Yes. Yes, I do see that, yeah. 17 Q. Okay. Like, for instance, about 18 two-thirds of the way down the page, you see 19 where expert report in a matter between a 20 U.S. carrier, that bullet point? 21 A. Hold on. Page A-6, expert report. 22 Yes, I do see that, yes. 23 Q. Okay. That seems to indicate to 24 me that there may not have been any testimony 25 and that was just a report in that particular</p> <p style="text-align: right;">Page 25</p>

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<p>1 case.</p> <p>2 A. In that particular instance -- I'm</p> <p>3 just trying to recall why I had to not</p> <p>4 disclose -- the client in that matter asked</p> <p>5 me not to disclose the name, their name, and</p> <p>6 I filed an expert report, but I was neither</p> <p>7 deposed nor was I asked to provide live</p> <p>8 testimony in court.</p> <p>9 Q. Okay. And it seems like there are</p> <p>10 a couple of instances in there where -- at</p> <p>11 least in this section A attached to your</p> <p>12 report, where testimony is not listed.</p> <p>13 That's why I thought this might have been</p> <p>14 every retention as opposed to just every</p> <p>15 retention that involves testimony.</p> <p>16 A. So when you refer to testimony,</p> <p>17 you're referring to, like, live oral</p> <p>18 testimony?</p> <p>19 Q. Yes. Either in a deposition or a</p> <p>20 court proceeding or at trial or an</p> <p>21 arbitration?</p> <p>22 A. Okay. Yeah. So this would</p> <p>23 include all of the above, all of the live</p> <p>24 testimony, as you just described, as well as</p> <p>25 expert reports.</p> <p style="text-align: right;">Page 26</p>	<p>1 A. It was not.</p> <p>2 Q. Okay. If we look at page A-9,</p> <p>3 five bullet points up where it says, "Provide</p> <p>4 expert consulting services to several major</p> <p>5 U.S. mainline and regional airlines."</p> <p>6 Do you see that bullet point?</p> <p>7 A. I do, yes.</p> <p>8 Q. When you say "U.S. mainline and</p> <p>9 regional airlines," was American Airlines or</p> <p>10 any of its affiliates part of that</p> <p>11 representation?</p> <p>12 A. It would be included, as would</p> <p>13 most other carriers that went through Chapter</p> <p>14 11 and Delta, Northwest, United, US Airways,</p> <p>15 Comair, Pinnacle. There's a whole set of</p> <p>16 airlines throughout the decade after 9/11</p> <p>17 that went bankrupt, and I was working --</p> <p>18 providing consulting to a number of them.</p> <p>19 Q. And American was one of those?</p> <p>20 A. They were one of them, yeah.</p> <p>21 Q. And that was in connection with</p> <p>22 American or its affiliates' Chapter 11</p> <p>23 bankruptcy proceeding?</p> <p>24 A. That's correct.</p> <p>25 Q. And then a couple more bullet</p> <p style="text-align: right;">Page 28</p>
<p>1 Q. Okay. Got it.</p> <p>2 So if you'd been retained by</p> <p>3 American Airlines, regardless of who you were</p> <p>4 working for, if you had been retained as an</p> <p>5 expert witness, regardless of whether you</p> <p>6 gave testimony, if you at least gave a</p> <p>7 report, it is identified in Appendix A to</p> <p>8 your report; is that fair?</p> <p>9 A. To the best of my knowledge, I try</p> <p>10 to keep this complete, yes.</p> <p>11 Q. Okay. I mean, since we're there,</p> <p>12 let's go ahead and talk about this section.</p> <p>13 Bear with me for a minute.</p> <p>14 So let's go back to A-6, that</p> <p>15 bullet point we were talking about.</p> <p>16 A. A-6. Okay.</p> <p>17 Q. The same bullet point where it</p> <p>18 says, "Expert report in a matter between a</p> <p>19 U.S. carrier and one of its represented</p> <p>20 employee groups." (as read)</p> <p>21 Do you see that bullet point?</p> <p>22 A. I do see that, yeah.</p> <p>23 Q. Okay. Can you at least tell me if</p> <p>24 that U.S. carrier that you referred to was</p> <p>25 American Airlines or any of its affiliates?</p> <p style="text-align: right;">Page 27</p>	<p>1 points down, where it says, "Analysis of</p> <p>2 industry, economic and antitrust issues of</p> <p>3 three major U.S. airlines," was American one</p> <p>4 of those?</p> <p>5 A. No, I don't believe they were,</p> <p>6 actually.</p> <p>7 Q. At the bottom it says, "Provided</p> <p>8 valuation "of a major carrier's U.S. slot</p> <p>9 holdings."</p> <p>10 Would that major carrier have been</p> <p>11 American or any of its affiliates?</p> <p>12 A. I do not believe that American was</p> <p>13 that carrier, no.</p> <p>14 Q. Moving on on the next page, A-10,</p> <p>15 it says, "Analysis of industry and economic</p> <p>16 and antitrust issues," third bullet point</p> <p>17 down, of a major U.S. airline. (as read)</p> <p>18 Would that major U.S. airline have</p> <p>19 been American?</p> <p>20 A. No.</p> <p>21 Q. Moving a few more bullet points</p> <p>22 down to "Industry analysis for a major</p> <p>23 airline in connection with post-9/11</p> <p>24 workforce reductions," would that major</p> <p>25 airline have been American or any of its</p> <p style="text-align: right;">Page 29</p>

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<p>1 affiliates?</p> <p>2 A. No, it was not.</p> <p>3 Q. I've got a few bullet points I'm</p> <p>4 going to ask --</p> <p>5 A. Sure.</p> <p>6 Q. -- the same question on.</p> <p>7 So I would move down to the bullet</p> <p>8 point that starts, "Authored whitepaper on</p> <p>9 behalf of major U.S. airline."</p> <p>10 A. Sorry. What page are you on, sir?</p> <p>11 Q. I'm still on A-10.</p> <p>12 A. A-10. Okay. "Authored"?</p> <p>13 Q. Whitepaper on behalf --</p> <p>14 A. Oh, I see that, yeah.</p> <p>15 Q. Was that American Airlines or any</p> <p>16 of its affiliates?</p> <p>17 A. I believe that was one, yes.</p> <p>18 Q. Moving down, I believe, the fourth</p> <p>19 bullet point from the bottom, as well as the</p> <p>20 third bullet point from the bottom, also talk</p> <p>21 about "Analysis" and -- "of industry and</p> <p>22 economic issues for a major U.S. airline."</p> <p>23 The major U.S. airline referred to</p> <p>24 in either of those bullet points, was that</p> <p>25 American or any of its affiliates?</p> <p style="text-align: right;">Page 30</p>	<p>1 Northwest Airlines.</p> <p>2 Q. And what do you mean when you say</p> <p>3 "hub dominance"?</p> <p>4 A. Allegations of hub dominance?</p> <p>5 Q. Yes.</p> <p>6 A. Well, as I discuss in my report,</p> <p>7 back many years ago, the -- there were --</p> <p>8 there was a pretty lively debate amongst</p> <p>9 those that studied the airline industry about</p> <p>10 hub pricing, you know, the pricing that</p> <p>11 airlines paid -- I'm sorry -- the prices that</p> <p>12 airlines would charge in hubs versus a</p> <p>13 non-hub.</p> <p>14 Q. When you say "hub," what do you</p> <p>15 mean?</p> <p>16 A. Well, a hub as I describe in my</p> <p>17 report is a central part -- a hub-and-spoke</p> <p>18 carriers' network, so there's kind of a</p> <p>19 network architecture that's used by some</p> <p>20 carriers known as hub-and-spoke networks.</p> <p>21 And the hub is essentially the central focal</p> <p>22 point where flights are funneled into the hub</p> <p>23 so that people can make connections to other</p> <p>24 places.</p> <p>25 Q. And when was this analysis done</p> <p style="text-align: right;">Page 32</p>
<p>1 A. So are you talking about the third</p> <p>2 from the bottom and the second from the</p> <p>3 bottom?</p> <p>4 Q. It depends -- you see there's a</p> <p>5 bullet point under "impact of COVID-19," so</p> <p>6 whether you count -- if you count that one,</p> <p>7 I'm talking about the fourth and the third</p> <p>8 from the bottom.</p> <p>9 A. On A-10?</p> <p>10 Q. On A-10?</p> <p>11 A. On A-10, third and fourth. So the</p> <p>12 one that says, "Analysis of industry and</p> <p>13 economic issues for a major airline in a</p> <p>14 predatory pricing suit"?</p> <p>15 Q. Correct.</p> <p>16 A. That was not American Airlines,</p> <p>17 no.</p> <p>18 Q. What about the next one that is</p> <p>19 related to and responsive allegations of hub</p> <p>20 dominance?</p> <p>21 A. No, that was not American.</p> <p>22 Q. Who was that for?</p> <p>23 A. I think that was, if I recall,</p> <p>24 part of my CV is dating back to probably the</p> <p>25 late '90s or the early 2000s, I think it was</p> <p style="text-align: right;">Page 31</p>	<p>1 that you refer to in this bullet point on</p> <p>2 page A-10 on your report?</p> <p>3 A. I can't tell you precisely as I</p> <p>4 sit here right now, but my suspicion,</p> <p>5 especially given where this sits on my CV,</p> <p>6 which is generally organized chronologically,</p> <p>7 is in the, as I said, the late '90s or early</p> <p>8 2000s.</p> <p>9 Q. And have you testified on hub</p> <p>10 dominance before, other than this analysis</p> <p>11 that you identify?</p> <p>12 A. Have I testified on hub dominance?</p> <p>13 I'm just trying to think because I've</p> <p>14 testified many times. I'm just trying to</p> <p>15 think if there's a time specifically where</p> <p>16 that topic came up. I don't know if I've</p> <p>17 specifically testified -- I've testified</p> <p>18 numerous times on the competitive state of</p> <p>19 the industry; and as I describe in my report</p> <p>20 and as we discussed this morning, at points</p> <p>21 in time in the industry's evolution,</p> <p>22 economists debated whether or not there was,</p> <p>23 you know, the exercise of any type of market</p> <p>24 power at hubs. That's a debate that was</p> <p>25 occurring many decades ago. So it's possible</p> <p style="text-align: right;">Page 33</p>

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<p>1 that in some of my testimony I've recounted 2 kind of the evolution of the industry, and 3 that's a part of the evolution of the 4 industry. 5 Q. Okay. Same question but as to 6 expert reports. Have you given any expert 7 reports on hub dominance or hub competitive 8 activities, other than the one that you're 9 testifying on here today? 10 A. Define what you mean by "hub 11 competitive activities." I'm not quite sure 12 what you mean by that. 13 Q. I thought that's what you were 14 describing in your testimony. Competitive 15 market forces at hubs in the airline 16 industry, is that a fair term? Do you 17 understand what I'm saying when I say that? 18 A. Why don't you describe what you 19 mean by that. 20 Q. Well you're the expert. I'm 21 trying to figure out what you believe are the 22 issues as it relates to competitive forces at 23 these hubs you've been talking about. You 24 tell me. 25 A. Well, as I've just told you, over</p> <p style="text-align: right;">Page 34</p>	<p>1 debate amongst scholars and amongst those 2 that were following the industry. 3 Q. Congress was interested in it as 4 well, right? 5 A. It was a vigorous debate. I'm not 6 sure if Congress per but certainly DOT 7 weighed in on it and others did as well. 8 Q. So getting back to A-10, if we 9 look at the last bullet point on A-10, that's 10 these above "Impact of COVID-19," where it 11 says, "Analysis of industry, regulatory and 12 economic issues for a major U.S. airline," 13 would that major U.S. airline have been 14 American Airlines or any of its affiliates? 15 A. Oh, gosh, let me think. 16 And this is stretching my memory 17 because this is now probably 27 years ago or 18 26 years. So I think American may have been 19 the carrier that was looking at some kind of 20 joint ownership agreement with a Canadian 21 holding company, but I think there could have 22 been; but, again, I don't want to say a 23 hundred percent was American, but I think it 24 could have been American. 25 Q. If we turn the page to A-11, the</p> <p style="text-align: right;">Page 36</p>
<p>1 the course of the industry's evolution, after 2 deregulation, when hub-and-spoke networks 3 became a more centralized part of a certain 4 carrier's airline networks -- 5 Q. What point in time are you 6 referring? 7 A. Well, deregulation occurred in 8 1978, and after 1978, there was a period of 9 time where the hub-and-spoke networks of 10 certain carriers, the trunk carriers, as they 11 were known at the time expanded -- 12 Q. To include American? 13 A. American was one of them, yes. 14 Q. Go ahead. 15 A. And over a period of years and 16 so -- I think kind of the hub -- kind of the 17 hub debate and, you know, when economists 18 were most focused on it was probably in the 19 late '80s, into the 1990s, into maybe the 20 early part of 2000s. 21 Again, so prior to essentially the 22 growth of an expansion of low-cost carriers, 23 there was a vigorous debate as to whether or 24 not hubs conferred certain types of pricing 25 advantages to hub carriers, but it was a</p> <p style="text-align: right;">Page 35</p>	<p>1 last bullet point in the first section on 2 that page says, "For a major U.S. carrier, 3 analysis of the impact of COVID-19." I 4 assume that that analysis was done somewhat 5 recently? 6 A. Yes, it was, yes. 7 Q. Okay. And when was that done? 8 A. Well, 2000, I think, generally, in 9 that time period, 2000, 2001. I mean, it was 10 kind of post-COVID period. 11 Q. You sure it was 2000 or 2001? 12 A. I'm sorry. 2020. 13 Q. 2020 or 2021? 14 A. 2020, 2021. Yeah. Sorry. 15 Q. And would that have been for 16 American Airlines? 17 A. We did work for American Airlines 18 as well as other airlines on COVID-related 19 issues, but we did certainly work with 20 American Airlines. 21 Q. If I'm looking at A-12, the second 22 bullet point under "Conferences and Other 23 Invited Presentations" it talks about 24 "Georgetown Center for Business and Public 25 Policy."</p> <p style="text-align: right;">Page 37</p>

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<p>1 Do you see that one?</p> <p>2 A. I do, yes.</p> <p>3 Q. Airline Competition Conference,</p> <p>4 what did you speak about, if anything, at</p> <p>5 that conference?</p> <p>6 A. I believe I spoke -- let me think.</p> <p>7 So my recollection -- and I just</p> <p>8 need to -- my recollection is that I was --</p> <p>9 you know, I may be confusing it with what I</p> <p>10 spoke about at the -- I had a legal symposium</p> <p>11 just before that. It's one of two things or</p> <p>12 it may have been an amalgamation of a couple</p> <p>13 of things.</p> <p>14 But I recall having completed a</p> <p>15 whitepaper for Air New Zealand, where we were</p> <p>16 looking at -- we, when I say "we," my</p> <p>17 coauthors and I, at the joint venture that</p> <p>18 they had with a variety of carriers in Asia,</p> <p>19 and they had given us access to their</p> <p>20 ticketing data that allowed us to do things</p> <p>21 that -- and control for things that some of</p> <p>22 the economic literature that relies on public</p> <p>23 data wasn't able to control for, and I recall</p> <p>24 that we had some nice results or interesting</p> <p>25 results.</p> <p style="text-align: right;">Page 38</p>	<p>1 example, working on a matter for United in</p> <p>2 which United and American were competing for</p> <p>3 the same thing.</p> <p>4 The one that I can think of most</p> <p>5 recently would be in the most recent DOT</p> <p>6 allocation for slots at Haneda, and American</p> <p>7 and United were the two carriers that were</p> <p>8 competing for the initial daytime slot at</p> <p>9 Haneda, and I was working with United.</p> <p>10 Q. Was that a court case?</p> <p>11 A. It was -- no, it was DOT, with</p> <p>12 authority preceding.</p> <p>13 Q. Any other times you can -- it</p> <p>14 sounds like you're telling me that you've</p> <p>15 never testified adverse -- or given an expert</p> <p>16 report adverse to American Airlines in a</p> <p>17 court case; is that fair?</p> <p>18 A. I don't think I've been asked to,</p> <p>19 no.</p> <p>20 Q. Okay. Have you ever been --</p> <p>21 testified on behalf of a party that was an</p> <p>22 adverse party to a major U.S. airline carrier</p> <p>23 in any type of court case or tribunal?</p> <p>24 A. Not to the best of my recollection</p> <p>25 as I sit here right now.</p> <p style="text-align: right;">Page 40</p>
<p>1 I do recall speaking about that at</p> <p>2 the IATA Legal Symposium, and I suspect</p> <p>3 that -- because that talk was well received</p> <p>4 at the IATA conference, I may have also</p> <p>5 spoken about that and other issues at the</p> <p>6 Georgetown one as well.</p> <p>7 Q. You list quite a number of</p> <p>8 retentions dealing with the airline industry</p> <p>9 in Exhibit A, where you were retained as an</p> <p>10 expert -- excuse me -- Appendix A, where you</p> <p>11 were retained as a expert. I did not see any</p> <p>12 where you were adverse to American Airlines;</p> <p>13 is that correct?</p> <p>14 A. So I have been -- I mean, it</p> <p>15 depends on how you think of "adverse to." I</p> <p>16 have certainly worked on matters for other</p> <p>17 carriers, where the -- kind of the goals of</p> <p>18 that carrier were adverse to the interest of</p> <p>19 American Airlines, so.</p> <p>20 Q. Was that ever in a court case?</p> <p>21 A. I need to think about that.</p> <p>22 So American has never been the</p> <p>23 adverse party of a case where I've testified</p> <p>24 in. But, again, as I just said, there's been</p> <p>25 cases certainly where I may have been, for</p> <p style="text-align: right;">Page 39</p>	<p>1 Q. I notice in a number of places on</p> <p>2 a number of bullet points you say, "major</p> <p>3 U.S. airlines." You use that terminology.</p> <p>4 When you say "major U.S.</p> <p>5 airlines," which airlines are you referring</p> <p>6 to?</p> <p>7 A. Can you just point me to --</p> <p>8 Q. Sure. Like, for instance, on page</p> <p>9 A-9, and it's the third bullet point down,</p> <p>10 and it says -- this is one instance where you</p> <p>11 use the term "major U.S. airlines"?</p> <p>12 A. For several U.S. major airlines?</p> <p>13 Q. Yeah. And I'm trying to figure</p> <p>14 out, in your head, when you're saying "major</p> <p>15 carriers" or "major U.S. airlines," what is</p> <p>16 the universe you're talking about?</p> <p>17 A. Well, so the DOT has a</p> <p>18 classification system of airlines and majors</p> <p>19 are those that, I think over the trailing</p> <p>20 four quarters, have revenues over a billion</p> <p>21 dollars.</p> <p>22 Q. Okay. So this decade, in the</p> <p>23 United States, which carriers would fall</p> <p>24 under that category?</p> <p>25 A. This decade in the United States,</p> <p style="text-align: right;">Page 41</p>

<p>1 well it's grown obviously, but -- so 2 American, Delta, United, Southwest, Alaska, 3 JetBlue, Spirit would be a major airline by 4 this point. I think Frontier would be a 5 major airline by this point, and Hawaiian 6 would be a major airline at this point, and I 7 believe, I'd have to check to see whether or 8 not Allegiant is, for example. I don't 9 think, for example, Breeze or Avelo at this 10 juncture would be a major airline. 11 And, actually, I would add that 12 some of the regional carriers meet the 13 threshold -- the revenue threshold that DOT 14 would use to classify a major airline, so I 15 think SkyWest for sure. 16 Q. So in your Appendix A, when you 17 are referring to major U.S. airlines, you 18 would be referring to carriers at the time of 19 that specific retention that at least had 20 over -- what did you say, a billion 21 dollars of -- 22 A. A billion dollars of revenue, yes. 23 Q. Annual. Trailing 12 months? 24 A. I think four quarters probably. 25 Q. Okay. What percentage of your</p> <p style="text-align: right;">Page 42</p>	<p>1 last five years where you've been retained, 2 actual court cases or arbitrations or 3 proceedings where there are adverse parties, 4 what percentage of your work has dealt with 5 the airline industry? 6 A. It's very high. It's north of 90 7 percent. 8 Q. How much money has American 9 Airlines paid for your services over the last 10 five years? 11 A. I couldn't tell you as I sit here 12 right now. 13 Q. Do you think it's hundreds of 14 thousands of dollars or millions of dollars? 15 A. You're saying for the billings to 16 me personally or of my billings or for all 17 the work of the entire team that's working on 18 a case? 19 Q. The entire team that you were 20 involved with. 21 A. Over the last five years, it's 22 probably been in millions. 23 Q. North of \$10 million? 24 A. No. 25 Q. North of \$5 million?</p> <p style="text-align: right;">Page 44</p>
<p>1 income is derived from -- or your billings, I 2 should say, is derived from either litigation 3 consulting or being retained as an expert as 4 it relates to the airline industry? 5 A. Over what period of time? 6 Q. Let's say the last five years. 7 A. So as being retained as an expert 8 or all the other -- 9 Q. Or providing services for either 10 consulting or expert services for the airline 11 industry. 12 A. And would you be including in that 13 all types of carriers: passenger, cargo, 14 private? 15 Q. Sure. 16 A. It's fairly high. It's -- you 17 know, there's cases where I'm retained by -- 18 for example, I'm working on a matter right 19 now where the client is a maintenance service 20 provider, so that's -- I'm not sure you would 21 put that in there, that's not an airline. 22 There the adverse party is actually an 23 airline. But I would say it's over 90 24 percent. 25 Q. Okay. And of the cases in the</p> <p style="text-align: right;">Page 43</p>	<p>1 A. I couldn't tell you as I sit here 2 right now. 3 Q. Somewhere between 1 and \$10 4 million is your estimate? 5 A. It is definitely above one. I 6 can't tell you whether or not it's -- it's 7 certainly not ten. I don't think. It's 8 somewhere between that, I would suspect. 9 Q. Exhibit 1, who drafted that? 10 A. I wrote every word of this report. 11 Q. Were there multiple drafts? 12 A. I'm not sure what you mean. I've 13 worked on this report. So at different 14 points in time it was at different states of 15 completion. 16 Q. Was there any point in time where 17 you passed a draft of the report that was not 18 final to somebody outside of your firm? 19 A. I think I sent one near-complete 20 version of the report to counsel for their 21 review. 22 Q. And did you retain that version of 23 your report? 24 A. Perhaps. I mean, it's -- it may 25 be sitting someplace.</p> <p style="text-align: right;">Page 45</p>

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<p>1 Q. Have you produced your entire work 2 file or your team's entire work file on this 3 project to your counsel? 4 A. Yes, I have. 5 Q. Including any notes or work papers 6 you had? 7 A. I didn't have any notes or work 8 papers. 9 Q. Okay. Did your team have any 10 notes or work papers on this project? 11 A. Not that I know of. 12 Q. I know, obviously, you've had 13 discussions with your counsel, which, again, 14 I don't want to know about, but have you had 15 discussions with American personnel directly 16 about this particular project that you've 17 undertaken in this case? 18 A. On the first kickoff call, just to 19 discuss the issues that were involved in this 20 case and whether or not I could participate, 21 there was an attorney from American on the 22 call. 23 Q. Okay. Other than that call, have 24 you had any discussions with American 25 Airlines' personnel as it relates to this</p> <p style="text-align: right;">Page 46</p>	<p>1 BY MR. TOBIN: 2 Q. It's probably a reflection on me 3 somehow? 4 So in your report you identified 5 the materials you reviewed to help you with 6 the project in this case. 7 Are there any materials you 8 reviewed for this project in this lawsuit 9 other than what's identified in your report, 10 Exhibit 1? 11 A. I mean, not specifically. What I 12 would tell you is that every project I work 13 on, every report that I write, you know, I 14 also rely upon my knowledge of the industry, 15 my 25-plus years of doing both academic 16 research and other consulting work of the 17 airline industry, and so that kind of 18 accumulated knowledge of the industry and how 19 it works and -- all filters down into all of 20 my thinking, but what's listed in Appendix -- 21 is it A? 22 Q. I think it's B. 23 A. B, are all of the documents and 24 data that I specifically relied upon in this 25 report.</p> <p style="text-align: right;">Page 48</p>
<p>1 case? 2 A. I have not. 3 Q. Other than those calls, have you 4 had any written communications with American 5 Airlines' personnel regarding this case? 6 A. I have not. 7 Q. Are you aware of your team having 8 any communications, written or oral, with 9 American Airlines related to this case, other 10 than what you've already told me about? 11 A. Not that I'm aware of. 12 Q. Did you help American Airlines 13 personnel prepare for any other depositions? 14 A. I had just one call prior to 15 Dr. Vasigh's deposition. I wouldn't 16 necessarily characterize it as helping him 17 prepare, but they more or less wanted to 18 understand what was in my report, you know, 19 walk through my report with me. 20 Q. And was that call with the lawyers 21 or was it with American Airlines personnel? 22 A. It was with attorneys. 23 (Beeping noise.) 24 A. It was telling me to be more 25 active. Sorry.</p> <p style="text-align: right;">Page 47</p>	<p>1 Q. Okay. Other than your general 2 accumulation of information from being in the 3 industry for many years, are there any 4 reports, data or documents that you reviewed 5 or relied on to prepare your report that are 6 not listed in Appendix B? 7 A. Not that I know of. If there 8 were, it would an omission by -- an 9 oversight. 10 Q. What about specifically any types 11 of authoritative text, treatises, industry 12 papers, any type of written authority that 13 you reviewed or relied on specifically to do 14 your work in this case? 15 A. Are they -- I mean, I think the 16 data on the documents, maybe the documents I 17 cite, but particularly the data, I'm a very 18 data-driven person, the data speaks for 19 itself, and I've cited and documented the 20 data that I used in this report. 21 Q. Anything else? 22 A. As I said, Appendix B contains a 23 list of all of the data and documents that I 24 specifically relied upon in forming my 25 opinions in this report, obviously</p> <p style="text-align: right;">Page 49</p>

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<p>1 supplemented my 25 years of experience.</p> <p>2 Q. And all those data and documents</p> <p>3 you did turn over to your lawyers in this</p> <p>4 case?</p> <p>5 A. Yes, we did.</p> <p>6 Q. Have you ever been retained by</p> <p>7 Kelly Hart -- or a case where Kelly Hart were</p> <p>8 the lawyers for the party that you were</p> <p>9 working for, other than this case?</p> <p>10 A. Kelly Hart was cocounsel, I</p> <p>11 believe, in a matter that I testified to --</p> <p>12 testified in in 2019, I believe.</p> <p>13 Q. And who did you offer opinions on</p> <p>14 behalf of in that case?</p> <p>15 A. That would have been American</p> <p>16 Airlines.</p> <p>17 Q. And which case was that?</p> <p>18 A. That would have been -- pardon</p> <p>19 me -- in the TWU/IAM Association slowdown</p> <p>20 matter in Fort Worth.</p> <p>21 Q. Is that matter reflected in your</p> <p>22 report in the appendix?</p> <p>23 A. It is. I gave testimony before a</p> <p>24 Judge McBride, the late Judge McBride.</p> <p>25 Q. Same question for Greenberg</p> <p style="text-align: right;">Page 50</p>	<p>1 Q. And what jurisdiction was that in?</p> <p>2 A. That was across the street.</p> <p>3 MR. MUYSKENS: Right over there.</p> <p>4 A. That was the Justice Department,</p> <p>5 U.S. -- United States of America versus</p> <p>6 JetBlue and American.</p> <p>7 BY MR. TOBIN:</p> <p>8 Q. Who were you representing in this</p> <p>9 case?</p> <p>10 A. JetBlue and American. I wasn't</p> <p>11 representing. I'll just take that back. I</p> <p>12 wasn't representing anyone. I was offering</p> <p>13 testimony on behalf of.</p> <p>14 Q. Who were you retained by?</p> <p>15 A. American and JetBlue.</p> <p>16 Q. And was that a published opinion?</p> <p>17 A. Was it a published opinion?</p> <p>18 Q. Yes.</p> <p>19 A. I believe it was a published</p> <p>20 opinion, yes.</p> <p>21 Q. And I'm sorry, when again was</p> <p>22 that?</p> <p>23 A. The decision came down, what, a</p> <p>24 year ago maybe. It's under appeal currently.</p> <p>25 Q. And that case is listed in your</p> <p style="text-align: right;">Page 52</p>
<p>1 Traurig, have you ever been retained by them</p> <p>2 in an airlines case before?</p> <p>3 A. Not to the best of my</p> <p>4 recollection.</p> <p>5 Q. Have you ever been retained by</p> <p>6 Greenberg Traurig before for any</p> <p>7 representation?</p> <p>8 A. Not to the best of my</p> <p>9 recollection.</p> <p>10 Q. Have any of your opinions ever</p> <p>11 been criticized, disregarded or excluded by a</p> <p>12 court or any type of tribunal or authority?</p> <p>13 A. Could you repeat the question?</p> <p>14 Q. Sure. Have any of your opinions</p> <p>15 ever been criticized, disregarded or excluded</p> <p>16 by a court, tribunal or any type of</p> <p>17 authority?</p> <p>18 A. Sure. Yes.</p> <p>19 Q. Okay. How many times has that</p> <p>20 happened?</p> <p>21 A. So the ones that I'm thinking of,</p> <p>22 Judge Sorokin, whose opinion, actually to</p> <p>23 this day, I very much disagree with,</p> <p>24 criticized my opinions in the</p> <p>25 JetBlue/American NEA trial.</p> <p style="text-align: right;">Page 51</p>	<p>1 Appendix in the report?</p> <p>2 A. It is, yes.</p> <p>3 Q. Any other times this has happened,</p> <p>4 where you've been criticized, disregarded --</p> <p>5 your opinions have been criticized,</p> <p>6 disregarded or excluded by a court, tribunal</p> <p>7 or authority?</p> <p>8 A. So there's one case back in, I</p> <p>9 think it's like 2008, where the judge</p> <p>10 excluded multiple experts' opinions with</p> <p>11 regards to one aspect of the report, and it</p> <p>12 wasn't due to methodical or any liability</p> <p>13 issues. He had just decided, as a matter of</p> <p>14 law, that one of the things I was asked to</p> <p>15 study and opine on wasn't relevant as a</p> <p>16 matter of law.</p> <p>17 Q. And which case was that?</p> <p>18 A. That was the Delta, AirTran bag</p> <p>19 fee litigation.</p> <p>20 Q. And what court was that in?</p> <p>21 A. It was in Georgia, I believe.</p> <p>22 Q. Federal or state court?</p> <p>23 A. Federal court, I believe. But,</p> <p>24 again, it was not -- he excluded testimony</p> <p>25 from multiple experts just as a matter of</p> <p style="text-align: right;">Page 53</p>

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<p>1 law. 2 Q. Do you recall who the judge was? 3 A. I don't recall. 4 Q. Do you remember who retained you? 5 A. Boies Schiller. 6 Q. What was the party you were 7 working for? 8 A. Delta Airlines. 9 Q. Okay. Any other instances where 10 your opinions have been criticized, 11 disregarded or excluded by a court, tribunal 12 or authority. 13 A. So, I mean, are you asking if I've 14 offered testimony in a matter and the judge 15 or finder of fact decided, you know, ruled -- 16 ruled against the party that I was retained 17 by? Is that what you are asking? 18 Q. No, that's not my question. 19 My question is whether your 20 opinions have either been criticized, 21 disregarded or excluded or struck from a 22 court proceeding by a judge? 23 A. No. Other than to -- and they 24 weren't struck in the NEA trial. They were 25 just -- he didn't find it compelling, for</p> <p style="text-align: right;">Page 54</p>	<p>1 A. Yeah, I think -- was it -- and 2 JetBlue, I just want to make sure you're 3 looking at the right one. I think it would 4 have been both -- against United 5 States versus JetBlue -- American and 6 JetBlue, right? 7 Q. If you just want to identify which 8 bullet point it is on your Appendix A. 9 A. Yeah. It's on A-4, the third 10 bullet. 11 Q. Thanks. 12 So in reading all these reports, 13 I've seen some acronyms and what appear to be 14 industry terms of art that I wasn't 15 necessarily familiar with until I got into 16 this case. So I want to go over a few of 17 them just to make sure you and I are on the 18 same page while we're talking about things. 19 Have you seen the acronym GNC 20 before? 21 A. Yes, I have. 22 Q. What does that mean to you? 23 A. Global network carrier. 24 Q. And what is a global network 25 carrier?</p> <p style="text-align: right;">Page 56</p>
<p>1 reasons I don't quite understand, but no. 2 I can -- there's many opinions 3 that spoke quite favorably of my opinions, 4 including Judge McBride, if you wanted to 5 read that one. 6 Q. All right. It sounds like 7 decades, but how long have you been 8 consulting in the airline industry? 9 A. Since 1998. 10 Q. At a transition point, do you need 11 a break or do you want to keep going? 12 A. I mean, I'm fine. If you want 13 to -- stretch my legs. 14 Q. Let's take a five-minute break? 15 THE VIDEOGRAPHER: The time is 16 10:09. We're going off the record. 17 (Recess taken at 10:09 a.m. to 10:18 a.m.) 18 THE VIDEOGRAPHER: We are back on 19 the record. The time is 10:18. 20 BY MR. TOBIN: 21 Q. So, Dr. Lee, I think I may have 22 found the case you were talking about. Was 23 it United States versus American Airlines 24 Group here in the District of Massachusetts 25 last year?</p> <p style="text-align: right;">Page 55</p>	<p>1 A. Well, a global network carrier is 2 a carrier that kind of has the name -- tries 3 to explain -- has a global reach in nature 4 and operates a set of hub-and-spoke -- 5 hub-and-spoke network usually with multiple 6 hubs, you know, with a global reach. 7 Q. Is American a global network 8 carrier? 9 A. Yes, American, Delta and United 10 are the three U.S. global network carriers. 11 Q. And what is the acronym or term 12 O&D to you? 13 A. It means origin and destination. 14 Q. And if you'd explain what you 15 believe that means or what you understand it 16 to mean. 17 A. So the term O&D -- so because of 18 passengers who travel by air often make 19 connections, not always but often make 20 connections, the term O&D refers to the 21 origin and the destination of that city 22 pairs, often looked at as a city pair with a 23 metropolitan area on both ends, kind of 24 irrespective of whether there's a connection 25 in between.</p> <p style="text-align: right;">Page 57</p>

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<p>1 So as I describe in my report, a 2 passenger that's traveling between Boston and 3 San Antonio is a -- and suppose I make that 4 connection via DFW, an O&D passenger between 5 Boston and San Antonio, and I'm not an O&D 6 passenger between Boston and Dallas, nor 7 between Dallas and San Antonio. 8 Q. Okay. So in the example you just 9 gave, is city pair synonymous with O&D? 10 A. It's not synonymous because 11 sometimes -- and I generally don't think it's 12 the best practice, but sometimes people think 13 of O&D as airport pairs, and in the case of 14 Boston to San Antonio, because there's only 15 one airport in both the Boston and San 16 Antonio, those two would be the same. But if 17 you were looking at, for example, Washington 18 DC to Miami, Fort Lauderdale, there are, you 19 know, airport pairs within that city pair, 20 and so they wouldn't -- I mean, I would treat 21 the two as synonymous, but some people might, 22 for certain reasons, look at the various O&D 23 airport pairs within that city pair. 24 Q. Now, you mentioned earlier in your 25 testimony the term "hub and spoke." Hub and</p> <p style="text-align: right;">Page 58</p>	<p>1 refer to it. 2 Q. What do you believe it means? 3 When it's been referred to in this case. 4 A. Dynamic pricing, I think is 5 referring to essentially the temporal element 6 of prices or airfares and how they're kind of 7 constantly evolving over time. 8 Q. Okay. So -- and we talked a 9 little bit about this earlier, that, for 10 instance, your example, Boston to San Antonio 11 through DFW, you may have looked for that 12 flight on American Airlines today and that 13 price, based on American's dynamic pricing, 14 could be different tomorrow or even three 15 days from now or a week from now. Is that 16 fair to say? 17 A. . As inventory is sold, pricing 18 can change. 19 Q. And quite often it does, right? 20 A. It can, yes. 21 Q. Are you familiar with the term 22 "revenue management" as it relates to the 23 airline industry? 24 A. I am, yes. 25 Q. What does that term mean to you?</p> <p style="text-align: right;">Page 60</p>
<p>1 spoke still exists as we sit here today, 2 right? 3 A. Absolutely. 4 Q. Okay. So when you use the term 5 "hub and spoke," what do you mean? 6 A. As I described earlier, it's a 7 network architecture that focuses around a 8 number of hub airports, for example, American 9 has hubs in Dallas Fort Worth and Charlotte, 10 Philadelphia, JFK, others as well, Chicago 11 O'Hare. And the network is designed to bring 12 travelers from multiple spokes into the hub 13 airport and to facilitate convenient 14 connections to multiple destinations, and 15 it's just -- it's one type of network 16 structure, and the other one is known as 17 point to point. 18 Q. Are you familiar with the term 19 "dynamic pricing" as it relates to the 20 airline industry? 21 A. I've heard the term used. I 22 believe it's a term that either Dr. Vasigh or 23 Mr. Phiroz uses. I don't know if it's 24 necessarily a term of art, but I certainly -- 25 I think I understand what they mean when they</p> <p style="text-align: right;">Page 59</p>	<p>1 A. Well, it's a pretty broad term; 2 but, essentially it means, in one of the 3 goals of all airlines, is to kind of manage 4 their inventory of seats. They're perishable 5 products, and one of the goals of airlines is 6 to try to maximize the revenue from those 7 available seats, and they have to do it 8 taking into account a lot of different 9 things. 10 The evolution of demand, 11 competitive activities on markets and so 12 revenue management is kind of like a broad 13 part of airline pricing that is -- kind of 14 captures the entire way that airlines are 15 trying to, you know, price all of the 16 different O&Ds within their network. 17 Q. And it's your understanding, based 18 on your experience in the industry, that the 19 United States GNCs, the three major carriers 20 you're talking about, devote a lot of time 21 and resources to management; is that fair? 22 A. Well, I don't think that there's 23 an airline out there that doesn't devote a 24 lot of time to revenue management. I mean, 25 that's half of the equation of whether or not</p> <p style="text-align: right;">Page 61</p>

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<p>1 you're hoping to generate a profit from 2 operating flights. 3 So revenue management is not 4 something that is limited to GNCs. Every 5 carrier, as I describe in my report, uses 6 revenue management. 7 Q. But this is, as far as this, you 8 know, emphasis on revenue management, if I 9 understand what I've been reading in this 10 case, this emphasis on revenue management has 11 really revved up in, say, the last 20 years; 12 is that fair? 13 A. I'm not sure I would -- I mean, I 14 think revenue management has always been -- 15 well, particularly in the post-deregulation 16 era, so it's different if we were talking 17 about the pre-deregulation era, where fares 18 and routes and entry were really dictated by 19 the Civil Aeronautics Board. It was a 20 regulated structure. Then revenue management 21 wasn't really as much of an issue. 22 But at least since 1979, when airlines 23 were given the freedom to price as they saw 24 fit and based off of market forces as opposed 25 to government, essentially cost-based</p> <p style="text-align: right;">Page 62</p>	<p>1 being a particular city? 2 A. Well, it depends on the context of 3 the -- what you're looking at. 4 Q. Let's talk about American Airlines 5 in Dallas Fort Worth. You understand 6 there're multiple commercial airports in 7 Dallas Fort Worth, right? 8 A. I do. 9 Q. When you're referring to the 10 hub-and-spoke system as it relates to the 11 American Airlines, are you referring to all 12 the commercial airports in Dallas or are you 13 just referring to DFW? 14 A. So when one is looking at 15 American's hub and spoke at Dallas, okay, 16 let's focus in Dallas, American's hub is 17 based at Dallas Fort Worth. However, that 18 hub at DFW competes with primarily Southwest, 19 as well as a few other carriers' flights in 20 and out of Dallas Love Field. 21 Q. Well, let me stop you there for a 22 second. 23 In that example, Southwest would 24 have a hub out of Dallas Love Field, just the 25 way we're talking about American having a hub</p> <p style="text-align: right;">Page 64</p>
<p>1 formulas, a revenue management has been a big 2 part of airlines; and, you know, as computer 3 technology has improved across all 4 industries, revenue management perhaps has 5 gotten more sophisticated, but it's always 6 been something that has been out there. 7 Q. And your understanding is the 8 revenue management teams for a particular 9 airline, one of their main goals is to 10 maximize profitability, correct? 11 A. I think all airlines have the goal 12 of maximizing profitability. 13 Q. And revenue management plays a big 14 part of that, right? 15 A. Sure. It does absolutely, for 16 every airline. 17 Q. And most airlines, to include the 18 American Airlines of the world, have large 19 teams devoted to revenue management, right? 20 A. I think any airline out there 21 devotes substantial resources to revenue 22 management, including American. 23 Q. And when you're talking about hub 24 and spoke, are you talking about hub and 25 spoke, the hub being a particular airport or</p> <p style="text-align: right;">Page 63</p>	<p>1 out of Dallas Fort Worth, correct? 2 A. Southwest doesn't refer to 3 Southwest as a hub-and-spoke carrier. 4 There're a point-to-point carrier. But I 5 will tell you that, all right, as I also 6 mention in my report, that even if you have a 7 point-to-point network, when your operations 8 at an airport like Southwest at Love Field or 9 like Southwest at Houston Hobby, reach a 10 certain size, where you're serving multiple 11 destinations with multiple flights per day, 12 they will flow passengers over Love Field. I 13 don't think Southwest would ever characterize 14 itself as a hub-and-spoke carrier. But there 15 are people -- there are numerous passengers, 16 particularly at places like Love Field or at 17 Hobby, that do make connections. 18 Q. But Southwest does dominate the 19 market at Dallas Love Field, right? I mean, 20 they have over 80 percent of the gates there, 21 correct? 22 A. I'm not sure I would use the term 23 "dominate" the same way you do. But they do 24 have the majority of flights out of there 25 because of kind of the multiparty agreement</p> <p style="text-align: right;">Page 65</p>

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<p>1 that was between the City of Dallas and 2 various folks. It's a very unique airport in 3 that there's a very finite number of gates, 4 and because of that, Southwest operates the 5 most flights out of Dallas Love Field. 6 Q. Just the way American operates 7 most of the flights out of Dallas Fort Worth, 8 right? 9 A. American has a hub at Dallas Fort 10 Worth, and they are the largest carrier, 11 Dallas Fort Worth. Dallas is a hugely 12 competitive market. 13 Q. Do you -- so who is highly 14 competitive in the Dallas market other than 15 Southwest Airlines and Dallas Fort -- and 16 American Airlines? 17 A. It depends on where you're 18 traveling. 19 Q. Let's say domestically. 20 A. Yeah, yeah. I mean, again, 21 depends on the city you're referring to. But 22 just, for example, in my report, I think 23 it's -- I can't remember if it's Exhibit 7 or 24 something like that -- I was looking at the 25 same city pairs that Dr. Vasigh was looking</p> <p style="text-align: right;">Page 66</p>	<p>1 domestically, going in and out of the Dallas 2 Fort Worth International Airport are American 3 Airlines? 4 A. Again, they have a hub at -- 5 American Airlines operates a hub at Dallas, 6 so they operate a large number of flights to 7 serve a large number of both domestic and 8 international destinations, but I think you 9 might be confusing operating a hub with 10 somehow -- or maybe you're not but certainly 11 Dr. Vasigh is -- confusing operating a hub 12 with somehow that hub conferring some type of 13 market power, which I absolutely don't agree 14 with. 15 MR. TOBIN: Objection, 16 nonresponsive. 17 BY MR. TOBIN: 18 Q. Do you know the percentage of 19 flights coming out of Dallas Fort Worth 20 International Airport that are operated by 21 American or its affiliates? 22 A. I don't know the precise number 23 offhand, but it is -- they operate it as a 24 substantial number. They're the hub carrier 25 there.</p> <p style="text-align: right;">Page 68</p>
<p>1 at, and I describe all of the competition on 2 all of the different city pairs that he was 3 looking at, and Spirit is on a large number 4 of the popular routes out of Dallas. United 5 flies to multiple places out of Dallas. 6 Frontier does. Delta does. So there's a lot 7 of competition in Dallas. It's highly 8 competitive. 9 Q. How many gates are there at Dallas 10 Fort Worth International Airport? 11 A. I don't know offhand, but it's 12 well over a hundred. 13 Q. And what percentage of the gates 14 does American have at Dallas Fort Worth 15 International Airport? 16 A. I don't know offhand, but it's as 17 a hub-and-spoke carrier, it operates out of 18 numerous gates, but that doesn't prevent, in 19 any way, shape or form, other carriers from 20 entering or expanding at Dallas Fort Worth, 21 as Spirit has. I mean, you can just look at 22 what Spirit has done in Dallas over the last 23 five to ten years. It's grown enormously at 24 Dallas. 25 Q. What percentage of flights,</p> <p style="text-align: right;">Page 67</p>	<p>1 Q. Do you believe it's over 50 2 percent of the flights? 3 A. Yes, it's probably -- and that's 4 not uncommon at all, at a hub airport for the 5 hub carrier to offer over 50 percent, that's 6 not uncommon. 7 Q. And you believe it's over 70 8 percent of the flights? 9 A. It could be. But, again, that's 10 not uncommon. 11 Q. So it's not uncommon, for 12 instance, Delta to operate over 70 percent of 13 the flights going out of Atlanta Hartsfield 14 International Airport? 15 A. That is not uncommon that a hub 16 carrier operates in that range, I don't know 17 if it's 70 percent, of that -- of flights out 18 of one airport, yeah. 19 Q. When you say a hub carrier to 20 operate out of a -- out of one airport, I 21 mean we are talking about at least a large 22 percentage of the flights that that hub 23 carrier typically operates out of that hub 24 airport, correct? 25 A. Yeah, it depends. I mean,</p> <p style="text-align: right;">Page 69</p>

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<p>1 airports like Chicago O'Hare, which has two 2 hub carriers, both American and United, or 3 there's airports like LAX, which has, like, I 4 guess three hub carriers plus service from 5 other carriers as well. So it varies. 6 Q. So what would the three hub 7 carriers be at LAX? 8 A. Delta, American and United. 9 Q. But combined, those three hub 10 carriers at LAX or the two hub carriers being 11 American and United at Chicago O'Hare, by far 12 operate a large percentage of the flights 13 going out of -- in and out of those airports, 14 correct? 15 A. I would agree that combined they 16 do. I would also -- you know, if you're 17 looking at competition out of Chicago, of 18 course you have to consider the service out 19 of Midway. If you're looking at competition 20 out of the LAX, you also have to consider 21 other airports in the LA-based area that all 22 kind of compete for the LA traffic market. 23 But yeah, I don't disagree with the notion 24 that at many airports the hub carriers 25 collectively offer the most number of</p> <p style="text-align: right;">Page 70</p>	<p>1 airport -- on airline operations at airports. 2 Q. I'm sorry. Did you say OIG or 3 OAG? 4 A. OAG. 5 Q. Which stands for? 6 A. The Official Airline Guide. 7 Q. But whether it's DOT or OAG, you 8 obviously would agree those are credible 9 sources for statistics on, you know, consumer 10 air traffic carrier? 11 A. They are statistics -- well, when 12 you say "statistics," I don't know if you're 13 referring to statistics or data but -- 14 Q. Better word is "data." You're 15 right. 16 A. -- they have data. 17 Q. Let me -- sorry. Let me rephrase 18 my question. 19 Whether it's OAG or DOT, you would 20 agree with me that the data they keep is 21 reliable data for experts like yourself to 22 review and rely on in the airline industry? 23 A. I rely on DOT data in much of what 24 I do, as well as other sources. 25 Q. Including O- --</p> <p style="text-align: right;">Page 72</p>
<p>1 flights, just in the same way that at other 2 airports where Southwest is the largest 3 carrier might operate the largest number of 4 flights. 5 Q. And when you said -- earlier you 6 referred to, I believe, DOT. You're 7 referring to the U.S. Department of 8 Transportation? Just so the record is clear. 9 A. Yes. 10 Q. And DOT keeps stats on all of 11 this, right? In fact, you cited a number of 12 DOT stats in your report, right? 13 A. DOT keep stats on what, 14 specifically? 15 Q. The amount of flights going in and 16 out of airports where a hub carrier is 17 present? 18 A. Yeah, I mean, the DOT has access 19 to a lot of data, and so I suppose -- I mean 20 some of the stats that DOT looks at, which 21 would have that type of -- they would have 22 access to that information through the DOT 23 100 database, through the ops database. I 24 often look at OAG, which is not a DOT 25 database, but certainly DOT has data on</p> <p style="text-align: right;">Page 71</p>	<p>1 A. OAG. 2 Q. -- data from -- 3 A. OAG, that's correct. 4 Q. And just let's make sure -- look, 5 I know exactly what you're saying, and you 6 where I'm going and I'm from Texas and a very 7 deliberate slow speaker, but because we got a 8 court reporter it's really hard for her to 9 take things down if we talk over each other, 10 and I'm just as guilty of that today, but 11 let's try to be conscious of it. 12 A. Understood. 13 Q. I think you would at least agree 14 with me that gate and landing slot 15 opportunities are difficult to obtain at 16 Atlanta Hartsfield Airport unless you're 17 Delta Airlines, right? 18 A. I would disagree with that. 19 Q. Well, I mean, don't they have a 20 contract that allows them to control a 21 certain -- doesn't Delta have a contract with 22 Atlanta Hartsfield that allows them to 23 operate and control a certain number of gates 24 at Atlanta Hartsfield? 25 A. Well, I just want to break down</p> <p style="text-align: right;">Page 73</p>

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<p>1 your question. So you mentioned two things. 2 You mentioned gates and slots. 3 Q. Okay. Let's take them separately. 4 Let's start with gates first. 5 A. So repeat your question. 6 Q. Sure. You understand -- it's at 7 least your understanding that Delta has an 8 agreement with Atlanta Hartsfield to operate 9 a certain number of gates at Atlanta 10 Hartsfield Airport? 11 A. Yeah, and, again, that's not 12 uncommon for hub carriers that make large 13 investments at hub airports to have preferred 14 access to a certain number of gates, that's 15 correct. 16 Q. And just like American Airlines 17 has similar preferred air access at Dallas 18 Fort Worth International Airport, correct? 19 A. They do. But just, you know, 20 importantly that does not imply that there 21 are not other gates available to carriers 22 that want access to the airport. 23 Q. Who at Dallas Fort Worth 24 International Airport had, to your 25 understanding, has preferred access to gates</p> <p style="text-align: right;">Page 74</p>	<p>1 agreement with DFW International for a 2 carrier other than American Airlines for 3 multiple gates? 4 A. Again, I'd have to -- I'd have to 5 go and look to see exactly what they do. But 6 I'm certain that other airlines that operate 7 at DFW have gates that they've been using for 8 many years and plan to use for many years in 9 the future, and if they wanted to expand 10 their operations, they could find additional 11 gates. 12 MR. TOBIN: Objection, 13 nonresponsive. 14 BY MR. TOBIN: 15 Q. Are you aware of anybody that has 16 preferred access at Dallas Fort Worth 17 International Airport, as you used the term 18 earlier, other than American Airlines? 19 A. I would just have to look to see 20 which other carriers have those types of 21 agreements -- 22 THE STENOGRAPHER: I'm sorry. 23 What was the end of that? 24 THE WITNESS: I said I would need 25 to investigate which airlines have</p> <p style="text-align: right;">Page 76</p>
<p>1 other than American Airlines? 2 A. I would need to look at the 3 different agreements, but I'm not aware of 4 any carrier that has -- wants to fly out of 5 DFW and that there isn't sufficient gate 6 availability for them to do that. 7 Q. Well, you just used the term 8 "preferred access" as it related to Delta and 9 Atlanta, and you agreed with me that American 10 Airlines has that same arrangement at Dallas 11 Fort Worth International Airport, right? 12 A. Yeah, there's multiple concourses 13 at large hub airports where the hub 14 carriers -- what may be referred to as, like, 15 a signatory tenant or whatever of that 16 concourse, but there's other concourses that 17 are common use -- you know, have common use 18 gates and that are not -- where there's not a 19 long-term lease agreement between the airport 20 and that airline for access to those gates. 21 I mean, that's, again, not uncommon in the 22 industry at all. 23 Q. Who do you understand at Dallas 24 Fort Worth International Airport has 25 preferred access or a long-term lease</p> <p style="text-align: right;">Page 75</p>	<p>1 agreements for kind of long-term gate 2 leases. 3 BY MR. TOBIN: 4 Q. So as we sit here today, without 5 consulting those materials, you're not aware 6 of any other carrier -- U.S. carrier that has 7 preferred access at Dallas Fort Worth 8 International Airport other than American 9 Airlines? 10 A. I think that numerous airlines are 11 almost certainly to have long-term gate 12 agreements with DFW, for obviously a smaller 13 number of gates because they don't operate 14 hubs, they don't operate a hub at that 15 airport. But, again, I mean, ultimately, 16 really the key question is, could airlines, 17 to the extent they wanted to expand their 18 operations at DFW, have access to gates in -- 19 a hundred percent I believe they could, as 20 we've seen with, for example, Spirit. 21 MR. TOBIN: Objection, 22 nonresponsive. 23 BY MR. TOBIN: 24 Q. Do you believe that American 25 Airlines has an arrangement with Dallas Fort</p> <p style="text-align: right;">Page 77</p>

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<p>1 Worth International Airport that other 2 carriers could not get?</p> <p>3 A. I don't think so. I mean, if, for 4 example, hypothetically, another carrier made 5 a decision to open a hub at DFW, I am sure 6 that DFW would welcome those discussions.</p> <p>7 Q. That would -- as you understand 8 DFW to be constructed right now, I mean, if 9 another carrier wanted to control 30 or more 10 gates at Dallas Fort Worth International 11 Airport, that would probably require 12 significant construction at the airport. 13 Wouldn't you agree?</p> <p>14 A. I would need to look at the 15 current level of gate utilization. It's a 16 very large airport, and there's a lot of 17 gates there, and, you know, it's possible 18 that things could be shuffled around; but, 19 again, I would say that if an airline were 20 interested in opening a hub at DFW, that DFW 21 Airport would welcome those discussions. 22 Just in the same way, for example, that, you 23 know, that Delta decided to open a hub in 24 Seattle. Like -- you know, that was an 25 Alaska Airlines hub. Delta decided to make</p> <p style="text-align: right;">Page 78</p>	<p>1 is slot controlled. And then there's -- 2 there's another airport with, you know, 3 Liberty in Newark, which is not formally slot 4 controlled, but that the FAA put certain 5 operational limits on it.</p> <p>6 Q. And do the major airline carriers 7 in the U.S. bargain with somebody to get a 8 certain number of slots that they're entitled 9 to at these airports that are slot 10 controlled?</p> <p>11 In other words, do they have, as 12 part of their agreement, where they get to 13 have a certain number of slots in the 14 day-to-day running of that airport?</p> <p>15 A. Slots are allocated at those 16 airports.</p> <p>17 Q. How are they allocated?</p> <p>18 A. I mean that's a long --</p> <p>19 Q. Are they allocated by contractual 20 agreement?</p> <p>21 A. They are allocated kind of by -- I 22 mean, some of them have been acquired over 23 time, right? So, you know, if one were to 24 kind of go back in time, you know, why does 25 American have proportionally more slots at</p> <p style="text-align: right;">Page 80</p>
<p>1 it a hub. They've grown their operations 2 there substantially.</p> <p>3 Q. We've used the term "landing slot" 4 during this deposition. What do you 5 understand that term to mean?</p> <p>6 A. Well, a slot is a specified period 7 of time where an airline can perform an 8 operation. An operation being either a 9 departure or a takeoff, and there's only a 10 very small number of airports in the United 11 States that are slot controlled.</p> <p>12 Q. And are the airports in the United 13 States that are slot controlled hub airports?</p> <p>14 A. So JFK is slot controlled, and so 15 that's a hub for -- primarily Delta. 16 American has a much smaller presence, 17 although they do operate kind of an 18 international hub out of JFK, but Delta is a 19 much, much larger carrier. So JFK is slot 20 controlled. LaGuardia is slot controlled. 21 And, again, that's really a Delta hub.</p> <p>22 American has a smaller presence 23 again at LGA. I should have mentioned 24 JetBlue being a hub carrier at JFK, and then 25 DC airport, where American does have a hub,</p> <p style="text-align: right;">Page 79</p>	<p>1 DCA right now is because they had exchanged 2 slots -- actually, it was US Air that 3 exchanged slots with Delta. You know, they 4 did what was known as the slot swap back in 5 2011. And so over time they have acquired 6 them through commercial transactions and the 7 such.</p> <p>8 Q. So that example you just listed 9 where American did a slot swap with Delta, 10 American got additional slots at DC airport, 11 correct?</p> <p>12 A. It was actually US Airways.</p> <p>13 Q. But US Airways has now merged with 14 American, right?</p> <p>15 A. That is correct.</p> <p>16 Q. So American is the beneficiary of 17 those slots, right?</p> <p>18 A. They now are in possession of 19 those slots.</p> <p>20 Q. So that slot swap that you were 21 talking about in 2011 with US Air and Delta, 22 what did Delta get in exchange for those 23 slots?</p> <p>24 A. They got slots at LaGuardia.</p> <p>25 Q. So they divvied up different slots</p> <p style="text-align: right;">Page 81</p>

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<p>1 at different major U.S. hubs?</p> <p>2 A. I'm not sure they divvied up.</p> <p>3 They entered into a trade for some slots.</p> <p>4 Q. And Delta is a major carrier at</p> <p>5 LaGuardia as we sit here today, right?</p> <p>6 A. It is, I think, the largest</p> <p>7 carrier at LaGuardia, although many airlines</p> <p>8 also serve LaGuardia.</p> <p>9 Q. And American is the largest</p> <p>10 carrier at DC -- Washington DC Airport,</p> <p>11 correct?</p> <p>12 A. They're the largest carrier at</p> <p>13 Reagan National Airport. Obviously DC is</p> <p>14 served by both DCA, as well as IAD and BWI</p> <p>15 airports, but at DCA American is the largest</p> <p>16 carrier. At IAD United is the largest</p> <p>17 carrier, and at BWI Southwest is the largest</p> <p>18 carrier.</p> <p>19 Q. Of all the Washington airports, if</p> <p>20 you combine them together, does American have</p> <p>21 the most landing slots?</p> <p>22 A. Well, that's kind of -- as I</p> <p>23 mentioned the other airports are not slot --</p> <p>24 there are no slots at IAD and BWI. So kind</p> <p>25 of definitionally, because DCA is the only</p> <p style="text-align: right;">Page 82</p>	<p>1 individual consumer?</p> <p>2 A. Yes. Yes.</p> <p>3 Q. Okay.</p> <p>4 A. And -- but when one looks at the</p> <p>5 data kind of in the aggregate, what one sees</p> <p>6 that if you go back to -- point to Exhibit 1</p> <p>7 in my report, so we can talk about it in the</p> <p>8 nonabstract. If you're to look at this long</p> <p>9 period of time since deregulation, when</p> <p>10 lower-cost carriers had expanded, you can see</p> <p>11 that the large network carrier share has gone</p> <p>12 from 89 percent down to 52 percent. So that</p> <p>13 would suggest that many passengers have</p> <p>14 developed brand loyalty to some of the</p> <p>15 lower-cost carriers as well.</p> <p>16 Q. Or it could suggest that people</p> <p>17 are just trying to find the lowest price</p> <p>18 flight as well, right?</p> <p>19 A. Absolutely. People often -- price</p> <p>20 is an important factor in the decision of</p> <p>21 many consumers.</p> <p>22 Q. And so do you believe that, as we</p> <p>23 sit here today in 2024 compared to 1994, when</p> <p>24 your percentages look like in Exhibit 1 start</p> <p>25 escalating, that people are more likely today</p> <p style="text-align: right;">Page 84</p>
<p>1 slot-controlled airport of those three and</p> <p>2 because American happens to be the largest</p> <p>3 carrier at DCA, they have the largest number</p> <p>4 of slots.</p> <p>5 I can't tell you at this moment</p> <p>6 sitting here right now if they actually</p> <p>7 operate the largest number of operations when</p> <p>8 you look at the combined three airports in</p> <p>9 the DC area. It would be probably close with</p> <p>10 United.</p> <p>11 Q. Do you believe or do you have an</p> <p>12 opinion on whether brand loyalty has</p> <p>13 increased or decreased since the entrance of</p> <p>14 low-cost carriers into the market?</p> <p>15 A. Well, I haven't conducted a formal</p> <p>16 study of that, but what I would say is that</p> <p>17 over the period of time, as I show, I think</p> <p>18 it's in maybe Exhibit 1 of my report, the</p> <p>19 share of domestic-only passengers traveling</p> <p>20 on the -- what are now the GNC, says decline</p> <p>21 significantly over time. So to the extent</p> <p>22 there's brand loyalty, I think that's a very</p> <p>23 individual question.</p> <p>24 Q. When you say "individual</p> <p>25 question," you mean individual to the</p> <p style="text-align: right;">Page 83</p>	<p>1 to choose a flight based on price than back</p> <p>2 then?</p> <p>3 A. I think it really depends on the</p> <p>4 individual. I can't generalize one way or</p> <p>5 another to all individuals. I think the</p> <p>6 decision -- the travel decision is highly</p> <p>7 individualized.</p> <p>8 Q. So if I understand your point, is</p> <p>9 that to one customer at a particular point in</p> <p>10 time, a \$50 fare difference might be</p> <p>11 significant and another person, a hundred</p> <p>12 dollar fare difference might not be</p> <p>13 significant for that same flight at that same</p> <p>14 time? It's individualized.</p> <p>15 A. It's individualized, and it would</p> <p>16 even depend on the purpose of the trip. You</p> <p>17 know, if you have to fly to a meeting and you</p> <p>18 need to be there at a certain time, you may</p> <p>19 be willing to pay a little bit more for a</p> <p>20 flight that gets you exactly where you want</p> <p>21 to be at the right time, maybe not having to</p> <p>22 make a connection.</p> <p>23 You may be someone who wants a</p> <p>24 little extra leg room or something like that.</p> <p>25 You know, there's a lot of factors that go</p> <p style="text-align: right;">Page 85</p>

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<p>1 into the decision of which particular ticket</p> <p>2 you're going to buy.</p> <p>3 Q. Are you familiar with -- I'm</p> <p>4 definitely going to butcher these names --</p> <p>5 the Herfindahl-Hirschman Index?</p> <p>6 A. I am, yes.</p> <p>7 Q. It's also sometimes referred to as</p> <p>8 the HHI index?</p> <p>9 A. I am, yes.</p> <p>10 Q. May I please refer to it as that</p> <p>11 during this deposition?</p> <p>12 A. Absolutely.</p> <p>13 Q. What is the HHI index?</p> <p>14 A. It is a measure of what is</p> <p>15 referred to by some as concentration, and it</p> <p>16 is computed as the sum of squared market</p> <p>17 shares of -- once you've defined whatever</p> <p>18 market you're looking at, you would take the</p> <p>19 market shares of each of the individual</p> <p>20 participants, you would square them and you'd</p> <p>21 sum them. So it's a number between, you</p> <p>22 know, one and 10,000.</p> <p>23 Q. Okay. Do you believe that it's a</p> <p>24 credible industry source for experts like</p> <p>25 yourself?</p> <p style="text-align: right;">Page 86</p>	<p>1 instrument.</p> <p>2 Q. And why do you believe it's blunt?</p> <p>3 A. Because it doesn't capture the</p> <p>4 nature of competition, and so when you have</p> <p>5 carriers or different competitors that have</p> <p>6 vastly different cost structures -- you know,</p> <p>7 HHI treats every competitor equally, and when</p> <p>8 you have carriers that have much, much lower</p> <p>9 costs than others or firms that have much,</p> <p>10 much lower costs than others, they need not</p> <p>11 have a large market share to have a</p> <p>12 substantial influence on prices in that</p> <p>13 market.</p> <p>14 Q. Okay. Have you ever used the HHI</p> <p>15 index in your efforts in consulting in the</p> <p>16 airline industry?</p> <p>17 A. Have I used the HHI? I may have</p> <p>18 used the HHI. I know that I have computed</p> <p>19 HHIs before -- often in response to maybe</p> <p>20 someone else has computed an HHI. But, yeah,</p> <p>21 I don't discount the fact that -- as I say,</p> <p>22 it's a measure. It's not like it's out of</p> <p>23 left field. It's a measure that's often used</p> <p>24 or sometimes used, and I think it's kind of a</p> <p>25 blunter instrument because it's not as</p> <p style="text-align: right;">Page 88</p>
<p>1 A. I don't know what you mean by</p> <p>2 "source." It's not a source. It's a</p> <p>3 calculation.</p> <p>4 Q. It's a credible industry tool that</p> <p>5 experts like yourself use in the industry?</p> <p>6 A. You know, I think there is debate</p> <p>7 amongst economists as to the usefulness of</p> <p>8 HHI as it applies to the airline industry.</p> <p>9 Q. But you do, you see it as a tool</p> <p>10 that is commonly used in -- for experts like</p> <p>11 yourself in its industry?</p> <p>12 A. In this industry?</p> <p>13 You know, I think it's -- it's</p> <p>14 less common in, I think, airline than other</p> <p>15 industries. You know, I know that there are</p> <p>16 guidelines as to HHI that are used by the DOT</p> <p>17 -- sorry -- the DOJ and the FTC and the</p> <p>18 Horizontal Merger Guidelines, but as it's</p> <p>19 applied to the airline industry, I think many</p> <p>20 economists believe that it is kind of a</p> <p>21 limited utility in the airline industry.</p> <p>22 Q. And what is your belief about its</p> <p>23 utility in the airline industry?</p> <p>24 A. I mean, it's one piece of</p> <p>25 information, but I think it's a pretty blunt</p> <p style="text-align: right;">Page 87</p>	<p>1 nuanced as being able to actually understand</p> <p>2 the nature of competition.</p> <p>3 Q. Okay. Are you aware that one of</p> <p>4 the experts in this case actually used the</p> <p>5 HHI index in its analysis -- in the expert's</p> <p>6 analysis?</p> <p>7 A. I -- so I've looked at two</p> <p>8 reports. I've looked at -- I've only been</p> <p>9 asked to look at two reports, and those are</p> <p>10 Dr. Vasigh and Dr. Phiroz. And if any of the</p> <p>11 two of them was to look at the HHI, I suspect</p> <p>12 it would have been Dr. Vasigh, given his</p> <p>13 claims. But I don't recall. I could be</p> <p>14 mistaken. I'd have to go back and look</p> <p>15 through it. But I don't recall seeing</p> <p>16 specifically an HHI calculation in this</p> <p>17 report. But I could be -- I could have</p> <p>18 missed it.</p> <p>19 Q. So, as we sit here today, you</p> <p>20 don't have any reason to criticize the use of</p> <p>21 a HHI by either Dr. Vasigh or Dr. Phiroz in</p> <p>22 this case?</p> <p>23 A. Well, I would need to see what</p> <p>24 they computed. Like if someone were to</p> <p>25 say -- was to compute an HHI at Dallas Fort</p> <p style="text-align: right;">Page 89</p>

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<p>1 Worth based off departures, for example -- I</p> <p>2 wouldn't actually think that's a particularly</p> <p>3 meaningful statistic because, you know, like</p> <p>4 that's -- that's -- that's -- what would be</p> <p>5 more, you know, useful -- not to suggest I</p> <p>6 endorse it in any, way shape or form the use</p> <p>7 of HHI, but, like, you often see people</p> <p>8 misusing HHI by applying it to the wrong</p> <p>9 metric.</p> <p>10 Q. But you don't have any reason to</p> <p>11 believe that's happened in this case,</p> <p>12 correct?</p> <p>13 A. I haven't -- I don't recall, as I</p> <p>14 sit here right now, seeing an HHI calculation</p> <p>15 by one of the other experts that I've been</p> <p>16 asked to look at, at least as I sit here</p> <p>17 right now.</p> <p>18 Q. So therefore you would have no</p> <p>19 reason to criticize the use of HHI in this</p> <p>20 case, as you sit here right now, based on</p> <p>21 what you know right now?</p> <p>22 A. Well, if you're asking me to -- to</p> <p>23 ask whether or not I would criticize a</p> <p>24 hypothetical HHI calculation, which I haven't</p> <p>25 seen, what I would say is that I would -- I</p> <p style="text-align: right;">Page 90</p>	<p>1 Q. Did you say "load factor"?</p> <p>2 A. I did, yes.</p> <p>3 Q. When you say "load factor," what</p> <p>4 do you mean?</p> <p>5 A. Load factor is a term in the</p> <p>6 industry which is formally defined as revenue</p> <p>7 passenger miles divided by available seat</p> <p>8 miles, RPMs over ASMs.</p> <p>9 You probably need me to define</p> <p>10 those as well.</p> <p>11 Q. Yeah, I have no idea what you just</p> <p>12 said.</p> <p>13 A. So we can look at it in kind of a</p> <p>14 simple term. So seat factor, which often is</p> <p>15 what people think about, is the percentage of</p> <p>16 seats that are filled on flights, and so when</p> <p>17 you say occupancy, you may be thinking of</p> <p>18 kind of, like, a seat factor. The statistics</p> <p>19 that are reported by airlines are calculated</p> <p>20 slightly differently, in that each seat is</p> <p>21 weighted by the number of miles that has been</p> <p>22 flown.</p> <p>23 And so the denominator of a load</p> <p>24 factor calculation is what are known as</p> <p>25 available seat miles, ASMs. Available seat</p> <p style="text-align: right;">Page 92</p>
<p>1 can't offer a specific criticism to it, as I</p> <p>2 sit here right now, but I would certainly</p> <p>3 reserve the right to offer my opinions about</p> <p>4 it after I've seen it. I wouldn't -- I</p> <p>5 wouldn't -- I certainly wouldn't endorse it</p> <p>6 at this juncture.</p> <p>7 MR. MUYSKENS: When you have time</p> <p>8 to break, give me 30 seconds to grab</p> <p>9 some allergy medicine?</p> <p>10 MR. TOBIN: Let's do it right now.</p> <p>11 No, go ahead. Do what you need to</p> <p>12 do.</p> <p>13 THE VIDEOGRAPHER: The time is</p> <p>14 11:04. We're off the record.</p> <p>15 (Recess taken at 11:04 a.m. to 11:07 a.m.)</p> <p>16 THE VIDEOGRAPHER: We're back on</p> <p>17 the record. The time is 11:07.</p> <p>18 BY MR. TOBIN:</p> <p>19 Q. Would you agree that flights</p> <p>20 today -- commercial air flights today have a</p> <p>21 higher occupancy rate than ten years ago?</p> <p>22 A. Than ten years ago. Probably a</p> <p>23 little bit more than ten years ago, yes. The</p> <p>24 load factors have trended up over time but</p> <p>25 they've kind of started to largely plateau.</p> <p style="text-align: right;">Page 91</p>	<p>1 miles are computed as the number of seats</p> <p>2 times the number of miles they've flown, and</p> <p>3 the numerator, RPMs, is what is known as</p> <p>4 revenue passenger miles, which are the number</p> <p>5 of miles flown by paying passengers. So</p> <p>6 that -- and divide one into the other, you</p> <p>7 get what is known as load factor.</p> <p>8 Q. So in that numerator, and I</p> <p>9 promise we're not going in any further into</p> <p>10 math than that because I'll be in trouble,</p> <p>11 but in that numerator, it sounds like there's</p> <p>12 certain passengers that are on an airline</p> <p>13 flight that could be excluded from that</p> <p>14 number, like, for instance, American Airlines</p> <p>15 employees who are flying for free. Is that</p> <p>16 fair or is that accurate?</p> <p>17 A. . So the non-revs, what are</p> <p>18 called in the industry, are airline employees</p> <p>19 typically, that are -- would be excluded from</p> <p>20 a load factor calculation.</p> <p>21 Q. But without question, American</p> <p>22 Airlines does get a benefit from being able</p> <p>23 to transport its employees from one location</p> <p>24 to the other to help it run its business,</p> <p>25 right?</p> <p style="text-align: right;">Page 93</p>

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<p>1 A. Sure. Yeah.</p> <p>2 Q. And, generally, on the major</p> <p>3 carriers, it's at least fair to say that</p> <p>4 flights are generally full these days?</p> <p>5 A. I don't know what you mean by</p> <p>6 "generally full." Depends on the night</p> <p>7 you're taking it, it depends on the day</p> <p>8 you're flying. It really depends. I mean,</p> <p>9 if you were to travel to Europe in February,</p> <p>10 you would find more seats empty than full,</p> <p>11 depending on the day you travel. So if you</p> <p>12 fly over the 4th of July weekend, it was a</p> <p>13 pretty busy weekend, so it really depends.</p> <p>14 Q. When was the last time you were on</p> <p>15 an American, United or Delta flight in the</p> <p>16 U.S. that wasn't substantially full?</p> <p>17 A. I mean, I don't wander the cabin</p> <p>18 to see how many seats are full, but I will</p> <p>19 grant -- I will admit that load factors</p> <p>20 industry-wide are, you know, hovering in the</p> <p>21 mid 80 percent range, which means that 15</p> <p>22 percent of flights on average are not taken.</p> <p>23 But, yeah, capacity is utilized, there's no</p> <p>24 doubt.</p> <p>25 Q. In that 80 percent mark, if I'm</p> <p style="text-align: right;">Page 94</p>	<p>1 right?</p> <p>2 A. I am, yes.</p> <p>3 Q. So there's been some discussion in</p> <p>4 your report and in the reports in this case</p> <p>5 about the situation where somebody books a</p> <p>6 flight -- for instance, let's use your Boston</p> <p>7 to DFW to San Antonio example -- and they</p> <p>8 book the flight Boston to San Antonio but</p> <p>9 they get off the flight in Dallas Fort Worth,</p> <p>10 you're aware that that scenario is a major</p> <p>11 issue in this case, correct?</p> <p>12 A. I am, yes.</p> <p>13 Q. Okay. And so in that scenario,</p> <p>14 it's at least your understanding, from having</p> <p>15 vast knowledge in the industry, that when</p> <p>16 that happens, American Airlines does</p> <p>17 everything it can to try to fill that seat</p> <p>18 from Dallas to San Antonio by either letting</p> <p>19 a non-rev person fly in the seat or by</p> <p>20 letting a standby passenger fly in the seat,</p> <p>21 that's the general practice of carriers like</p> <p>22 American, correct?</p> <p>23 A. There is a standby list, so that</p> <p>24 if it turns out that there's no-shows and</p> <p>25 this could be no-shows for reasons other than</p> <p style="text-align: right;">Page 96</p>
<p>1 understanding the math -- and please check me</p> <p>2 because there's a really good chance I'm</p> <p>3 not -- but the 80 percent mark, that number</p> <p>4 would actually be higher if you were counting</p> <p>5 non-revenue passengers who were also flying</p> <p>6 on those flights, correct?</p> <p>7 A. It can. The thing to keep in mind</p> <p>8 is that many employees that fly on -- for</p> <p>9 company business, for example, are jumpseat</p> <p>10 eligible. So some of them would fly -- like</p> <p>11 if you have pilot -- you often see a pilot</p> <p>12 come on to an airplane and he or she might be</p> <p>13 non-revving or dead-heading or whatever they</p> <p>14 might be doing, and they often go into the</p> <p>15 cockpit and sit in the jumpseat. So it</p> <p>16 depends.</p> <p>17 But yes, if there's non-revs that</p> <p>18 could add, you know, a percentage point or</p> <p>19 two, whatever it might be depending on the</p> <p>20 flight. And you'll also see sometimes flight</p> <p>21 attendants who are traveling on a non-rev</p> <p>22 basis sitting in the jumpseat as well, a</p> <p>23 flight attendant jumpseat.</p> <p>24 Q. And when you use the short form</p> <p>25 "rev," obviously you're referring to revenue,</p> <p style="text-align: right;">Page 95</p>	<p>1 obviously people who buy hidden-city tickets,</p> <p>2 they can -- people that are on the standby</p> <p>3 list can stand by for that seat.</p> <p>4 Q. And in your hypothetical, Boston</p> <p>5 to San Antonio, through Dallas Fort Worth, if</p> <p>6 someone were on that flight using a</p> <p>7 hidden-city ticket practice and exits the</p> <p>8 flight at DFW and does not take the second</p> <p>9 leg, American would try to fill those seats</p> <p>10 however it could?</p> <p>11 A. Well, I guess what I'm -- you seem</p> <p>12 to be maybe implicitly assuming that that</p> <p>13 happens to be the last available seat; but,</p> <p>14 you know, again, if flights are flying 85</p> <p>15 percent full, then seat may have gone empty</p> <p>16 anyhow. So it really just depends on the</p> <p>17 situation.</p> <p>18 Q. So it may or may not have</p> <p>19 mattered, I guess is your point?</p> <p>20 A. Yeah, it may not have mattered.</p> <p>21 Q. But if American is able to fill</p> <p>22 that seat, with either a standby passenger or</p> <p>23 somebody else that -- a non-rev passenger</p> <p>24 that it gets a benefit from, from</p> <p>25 transferring that person from Dallas to San</p> <p style="text-align: right;">Page 97</p>

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<p>1 Antonio, it's your understanding that the 2 Americans of the world certain endeavor to do 3 that, right? 4 A. They would -- if there's people 5 that are flying standby, they will -- and 6 there's available seats, they'll try to put 7 them on the flight. 8 Q. And it's common in the airline 9 industry, especially with large carriers like 10 American, that flights get overbooked, right? 11 A. You know, I think overbooking is 12 less common than it used to be because of the 13 denied boarding rules and the penalties on 14 denied boardings are -- I think it's less 15 common than it used to be because of the 16 denied boarding rules and the amount of 17 compensation that airlines sometimes now have 18 to pay when flights are oversold if a person 19 is involuntarily bumped. 20 And, so you know, you read of 21 these stories and hear of these stories of 22 sometimes an airline having to pay \$10,000 to 23 a passenger who was denied boarding or 24 something like that, which is obviously a 25 huge penalty.</p> <p style="text-align: right;">Page 98</p>	<p>1 factors. 2 Q. Okay. Because one less person is 3 on it and possibly even less luggage or 4 baggage is on it, right? 5 A. Well, definitely one less person. 6 As I understand how Skiplagged tries to 7 educate or inform passengers, they 8 essentially tell them not to bring luggage 9 other than a knapsack, but to the extent that 10 that knapsack weighs a couple pounds, sure. 11 Q. Okay. And that could actually 12 reduce fuel cost, hypothetically, on that leg 13 from Dallas Fort Worth to San Antonio, 14 correct? 15 A. It could. I'm not sure the 16 relevance of the question, but yeah, 17 hypothetically it could. 18 Q. Are you familiar with [REDACTED] [REDACTED] [REDACTED] 21 A. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p style="text-align: right;">Page 100</p>
<p>1 So I'm not saying that it doesn't 2 happen, but I can't tell you, as I sit here 3 right now, how frequently American overbooks 4 its flights. But my impression is that it's 5 less of an issue than it may have been some 6 years ago. 7 Q. Okay. Going back to your 8 hypothetical, Boston to San Antonio through 9 DFW, if hypothetically that DFW to San 10 Antonio leg was oversold, overbooked and a 11 passenger gets off at Dallas Fort Worth 12 through using a hidden-city ticketing method, 13 that helps the airline actually reduce the 14 amounts that that second leg was overbooked, 15 correct? 16 A. Hypothetically, it's possible that 17 it could, yes. 18 Q. Okay. And hypothetically going 19 for the other scenario, where the flight is 20 not overbooked and there are actually excess 21 seats in that second leg from Dallas Fort 22 Worth to San Antonio, if one less person 23 flies on that flight, it reduces the weight 24 of the flight, correct? 25 A. A reduced weight from lower load</p> <p style="text-align: right;">Page 99</p>	<p>1 Q. Okay. 2 A. I remember [REDACTED] [REDACTED] 4 Q. [REDACTED] 5 THE STENOGRAPHER: Hold on. We 6 need one at a time. 7 [REDACTED] [REDACTED] 9 A. Like, but this was -- again, back 10 in, like, [REDACTED] [REDACTED]. I remember something -- I 12 don't think the [REDACTED] [REDACTED] 14 Q. No, but you remember the point was 15 that American figured out if they took olives 16 off the salad it would save them a bunch of 17 money? 18 A. I do remember a story involving 19 [REDACTED], but, 20 you know, there's a lot of stories in the 21 airline industry. 22 Q. Do you remember the point of that 23 story being [REDACTED] [REDACTED] [REDACTED]</p> <p style="text-align: right;">Page 101</p>

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<p>1 A. I remember there was [REDACTED] [REDACTED] [REDACTED]</p> <p>4 Q. Okay. We were talking a little 5 bit about this earlier, but I believe, if I 6 understand, you know, part of the general 7 points of your report, it's that -- and your 8 opinions in this case, it's that if 9 hidden-city tickets and hidden-city ticketing 10 facilitators are not around, that doesn't 11 necessarily lead to the conclusion that the 12 consumers of those hidden-city ticketing 13 services would automatically buy the direct 14 flight, in your example, from Boston to 15 Dallas Fort Worth, at the higher price, 16 right?</p> <p>17 A. I'm not sure I understand your 18 question. Could I have it read back or?</p> <p>19 Q. Let's at least talk about the 20 assumptions in your hypothetical. Okay? 21 And the hypothetical being where somebody 22 uses a hidden-city ticket practice from going 23 from Boston to San Antonio, but they 24 actually -- there's an intermediate leg where 25 they get off the flight in Dallas Fort Worth?</p> <p style="text-align: right;">Page 102</p>	<p>1 because I was -- that Skiplagged wasn't being 2 transparent about it.</p> <p>3 That's kind of really, I think, 4 the thrust of my report or one of the big 5 thrusts of my report. So I just want to make 6 sure kind of when we talk about these, we 7 understand that central, I think, to my 8 opinions, is that Skiplagged isn't being 9 particularly transparent and honest to the 10 consumer as to what they're getting.</p> <p>11 MR. TOBIN: Objection, 12 nonresponsive.</p> <p>13 BY MR. TOBIN:</p> <p>14 Q. I understand what you described in 15 your report. We'll get into that scenario in 16 a minute.</p> <p>17 But let's stick with this 18 hypothetical, and I'm going to add some facts 19 to the hypothetical. Okay?</p> <p>20 Let's say that this particular 21 consumer bought this fare that you're talking 22 about from Boston to San Antonio through 23 Dallas Fort Worth for \$300, okay, and let's 24 assume at the exact same time they bought 25 that fare there was, on the same flight, a</p> <p style="text-align: right;">Page 104</p>
<p>1 We've talked about that so far, 2 right?</p> <p>3 A. Yes.</p> <p>4 Q. And if there's a hidden-city 5 ticket consumer involved in that scenario, 6 the assumption is, and you pointed out in 7 your report, this is not always the case, but 8 the assumption is they decided to take on 9 that hidden-city ticket fare because they 10 could save money over just buying another 11 option of buying an American Airlines flight 12 directly from Boston to Dallas, correct?</p> <p>13 A. Well, I think -- you might be 14 mischaracterizing my report a little bit. I 15 think one of the big thrust of my report is 16 that often these are promoted as fare 17 savings, but when one actually adds in, for 18 example, a service fee that may be associated 19 with the hidden-city ticket or when one 20 actually looks at other tickets that were 21 available, that, for example, in this case, 22 that Skiplagged didn't offer to me that 23 that -- I am, as a consumer, misled into 24 thinking I am buying a lower price fare when, 25 in fact, I'm actually having to pay more,</p> <p style="text-align: right;">Page 103</p>	<p>1 fare offered from American Airlines that 2 terminates in Dallas Fort Worth from Boston 3 to Dallas Fort Worth for \$500. Okay.</p> <p>4 You with me so far?</p> <p>5 A. I am, yes.</p> <p>6 Q. You would admit, at least in that 7 scenario, the hidden-city ticket consumer had 8 an option to save money by going through -- 9 and let's say there was a \$30 service fee on 10 it, so net it was 330 to the consumer. You 11 would admit under that hypothetical that 12 there was a savings opportunity for the 13 consumer by purchasing the facilitated 14 hidden-city ticket fare, correct?</p> <p>15 A. If the passenger was willing to 16 fraudulently purchase a ticket that violated 17 American's contract of carriage and was 18 willing to forgo other benefits that come 19 with buying a nonfraudulent ticket, there is 20 a money savings in that hypothetical, again, 21 and I'm accepting only as a hypothetical 22 because my own experience has been when 23 exploring Skiplagged, that it's not 24 particularly transparent or accurate in terms 25 of the prices that were available.</p> <p style="text-align: right;">Page 105</p>

<p>1 But for your -- purposes of this 2 hypothetical, subject to that passenger 3 willing to fraudulently represent what their 4 intentions were, then they could realize that 5 savings. 6 Q. Are you a lawyer, Dr. Lee? 7 A. I'm not a lawyer, no. 8 Q. Are you an expert on what 9 constitutes fraud or doesn't constitute 10 fraud? 11 A. I'm not using the term "fraud" in 12 any type of legal framework. I'm merely 13 saying that I know that when I purchase a 14 ticket, I'm entering into a contract with 15 carriage with an airline, and one of the 16 things that the contract of carriage at 17 American Airlines, and I think most other 18 airlines, prohibitively -- specifically 19 prohibit -- specifically prohibit hidden-city 20 ticketing, using hidden-city tickets. 21 Q. Have you been aware of whether 22 fraud is an allegation in this lawsuit or 23 not? 24 A. Again, I'm not using fraud -- 25 Q. Sir, are you aware of whether</p> <p style="text-align: right;">Page 106</p>	<p>1 customer in that hypothetical would have 2 those options and would not be obligated to 3 buy the \$500 ticket to Dallas, correct? 4 A. I don't think any consumer is 5 obligated to buy any particular ticket. 6 Q. I think we've covered this, but 7 this hidden-city ticket practice, you're 8 obviously aware that there are instances 9 where consumers just do this on their own 10 without being facilitated by any service such 11 as what my client offers? 12 A. I would agree with that. 13 Q. In fact, did American share with 14 you that [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] 20 A. I haven't received any of that 21 information, no. 22 Q. Do you believe that American, 23 Delta and United have over 50 percent of the 24 market share of U.S. domestic flights 25 combined between the three of them?</p> <p style="text-align: right;">Page 108</p>
<p>1 fraud is an allegation in this lawsuit or 2 not? 3 A. I think I've seen in the Complaint 4 the use of the term "fraud," and I'm not 5 using it, to be perfectly clear, in a legal 6 definition. I'm just saying -- I'm 7 misrepresenting to American Airlines if I do 8 that, and my intentions. 9 Q. So what I'm trying to get back to 10 is what I understand one of the points that I 11 believe you made in your report, is that if 12 the person didn't -- in this hypothetical, 13 did not have the hidden-city option, okay, 14 and did not have someone like my client 15 Skiplagged facilitating a hidden-city ticket 16 and it chose not to practice the hidden-city 17 practice, it didn't necessarily have to buy 18 the ticket for \$500 to Dallas, right, it 19 would have other options, like you've 20 described in your report, such as low-cost 21 carriers or maybe trying to buy a different 22 time and ticket, correct? 23 A. There are a multitude of options 24 to get from here to Dallas. 25 Q. So you would agree that the</p> <p style="text-align: right;">Page 107</p>	<p>1 A. Probably. They probably do, yeah. 2 I mean, you know, as you can see in 3 Exhibit 1, they have 52 percent share of 4 domestic-only passengers, and their average 5 gauge tends to be lower than the remaining 6 carriers, so it would stand to reason that 7 they probably do. 8 Q. What do you mean by "gauge"? 9 A. The number of seats on an 10 aircraft. 11 Q. Now, if we look at Exhibit 5 on 12 page 13 of your report. 13 A. Okay. 14 Q. Now, this exhibit talks about -- 15 it, in part at least shows low-cost carriers' 16 share of the market in hub cities, right? 17 A. It's their share of domestic O&D 18 passengers. 19 Q. Are there any large hubs in the 20 U.S. that are not listed on this graph? 21 And I say "hubs." I'm sorry, I 22 mean hub cities. 23 A. Actually, now that I look at this, 24 Seattle I think would now classify as a large 25 hub city, as Delta is there.</p> <p style="text-align: right;">Page 109</p>

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<p>1 Q. Anyone else?</p> <p>2 A. I mean, I think with the exception</p> <p>3 of Seattle, this is generally pretty</p> <p>4 complete. I could be missing one, but I</p> <p>5 think this is largely complete.</p> <p>6 Q. Now, my understanding of your</p> <p>7 Exhibit 5 is, for instance, when you list New</p> <p>8 York, you're not just talking about New York</p> <p>9 LaGuardia, you're talking about multiple</p> <p>10 airports within New York, right?</p> <p>11 A. For New York, yeah. This would</p> <p>12 be, as it says in the footnote, both JFK, New</p> <p>13 York and LaGuardia.</p> <p>14 Q. Okay. And so why is -- I don't</p> <p>15 know if this is terribly important, but I'm</p> <p>16 curious. Why is, like, is it Islip or</p> <p>17 Islip?</p> <p>18 A. Islip.</p> <p>19 Q. Yeah, why is Islip not included in</p> <p>20 New York?</p> <p>21 A. So that gets into a whole question</p> <p>22 of geographic market definition, and Islip,</p> <p>23 while there is -- you know, it certainly</p> <p>24 serves the parts of Long Island, it tends to</p> <p>25 be a little bit further out, so it's not</p> <p style="text-align: right;">Page 110</p>	<p>1 Q. I understand your distinction on</p> <p>2 New York. But I think you understand my</p> <p>3 question as it relates to most markets, like,</p> <p>4 for example, Dallas, you'd at least agree</p> <p>5 that DFW is the most significant airport or</p> <p>6 port in the DFW area compared to Dallas Love</p> <p>7 Field, correct, as far as commercial airline</p> <p>8 travel.</p> <p>9 A. Well, I'm not quite sure I would</p> <p>10 agree. DFW is a larger airport. It is also</p> <p>11 an international airport.</p> <p>12 Q. It's got a much more -- it's got a</p> <p>13 much higher volume of flights going in and</p> <p>14 out of DFW than Dallas Love, right?</p> <p>15 A. It absolutely does, but it would</p> <p>16 be a huge mistake to look at -- particularly</p> <p>17 if we're looking at domestic competition. I</p> <p>18 mean, it would be a fatal mistake to look</p> <p>19 only at DFW and not consider Dallas Love</p> <p>20 field, because Southwest has such a huge</p> <p>21 competitive impact on competition airfares in</p> <p>22 the Dallas area and to disregard all of their</p> <p>23 service because it happens to be a different</p> <p>24 airport and one that's actually much closer</p> <p>25 to downtown Dallas than DFW, that would be a</p> <p style="text-align: right;">Page 112</p>
<p>1 generally thought of as being one of the</p> <p>2 primary New York City airports. Like in the</p> <p>3 same way that maybe Stewart is as well.</p> <p>4 Q. So when you say Washington, you're</p> <p>5 considering all three major airports within</p> <p>6 the Washington-Baltimore area including BWI,</p> <p>7 Dulles and Reagan?</p> <p>8 A. I am.</p> <p>9 Q. What is within LA when you say Los</p> <p>10 Angeles in this exhibit?</p> <p>11 A. That would be LAX, Long Beach and</p> <p>12 Burbank.</p> <p>13 Q. And so if you analyze this same</p> <p>14 data and only the largest, most significant</p> <p>15 airport in each of these hub cities, the</p> <p>16 percentage of low-cost carriers' share of</p> <p>17 domestic O&D passengers would go down,</p> <p>18 correct?</p> <p>19 A. Well, not sure what you mean by</p> <p>20 the largest and most significant airport.</p> <p>21 For example, in New York.</p> <p>22 You know, are you referring to,</p> <p>23 like, Newark, is that less significant than</p> <p>24 the LaGuardia or JFK, I mean, these are all</p> <p>25 very large airports.</p> <p style="text-align: right;">Page 111</p>	<p>1 huge mistake in my opinion.</p> <p>2 Q. Granted, you're telling me that my</p> <p>3 hypothetical is fatal, but indulge me for a</p> <p>4 minute.</p> <p>5 Let's say we made, in your words,</p> <p>6 this fatal mistake and only counted the</p> <p>7 largest airport with the most traffic in that</p> <p>8 particular city, then these percentages on</p> <p>9 your graph in Exhibit 5 would go down</p> <p>10 significantly, correct?</p> <p>11 A. Some would go down.</p> <p>12 Q. Most would go down, wouldn't they?</p> <p>13 A. I'm not so sure that -- there's a</p> <p>14 lot of service at LAX by lower-cost carriers.</p> <p>15 So I'm not sure that would have a meaningful</p> <p>16 impact. And I'm not sure what would happen</p> <p>17 in New York, because, for example, if one</p> <p>18 were to look at JFK, JetBlue -- you know, the</p> <p>19 focus of their operations in New York is at</p> <p>20 JFK.</p> <p>21 So, again, I don't accept your</p> <p>22 general proposition. I'm not saying that at</p> <p>23 some places, like, for example, Phoenix, I'm</p> <p>24 not sure it would make a difference there.</p> <p>25 At DFW, at Dallas I think it would make a</p> <p style="text-align: right;">Page 113</p>

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1 difference because you would be excluding, as
 2 I said, you'd be making this fatal error of
 3 excluding Southwest.
 4 Q. So if I'm understanding this
 5 graph, and I understand you say it excludes
 6 Seattle, which should be included, but if I'm
 7 understanding this graph, this is showing
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 A. That's incorrect, because, as we
 13 talked about, many low-cost carriers are
 14 major --
 15 THE STENOGRAPHER: Keep your voice
 16 up. Major what?
 17 THE WITNESS: Are major airlines.
 18 BY MR. TOBIN:
 19 Q. Let me rephrase my question, then.
 20 You understand I'm talking about
 21 Delta, United and American, right? I mean
 22 Delta, United and American are [REDACTED]
 23 [REDACTED] correct?
 24 A. Well, I didn't -- your question
 25 was unclear. Maybe if you rephrase the

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1 question, I can provide the answer you're
 2 looking for.
 3 But as you phrased your last
 4 question and referred to major airlines, I
 5 disagreed with your proposition.
 6 Q. Okay. But let me make sure I can
 7 built a predicate here.
 8 So Delta, American and United are
 9 [REDACTED]
 10 [REDACTED]; is that correct?
 11 A. [REDACTED]
 12 [REDACTED]
 13 Q. Okay. Your Exhibit says [REDACTED]
 14 [REDACTED] correct?
 15 A. It does.
 16 Q. So I assume what you're trying to
 17 depict is [REDACTED]
 18 [REDACTED]?
 19 A. That's correct.
 20 Q. And we've established that
 21 American, United and Delta are not low-cost
 22 carriers, correct?
 23 A. That is correct.
 24 Q. So by extrapolation, [REDACTED]
 25 [REDACTED]

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1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED], correct?
 4 A. Could you just repeat the
 5 question?
 6 Q. That [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 right?
 12 A. That's not correct, because [REDACTED]
 13 [REDACTED]
 14 Q. Okay. Well, [REDACTED]
 15 [REDACTED]
 16 percent, you would agree with me, right?
 17 A. I would agree with that, of
 18 domestic-only passengers.
 19 Q. Now, on that same page, at the top
 20 of the page, you see the [REDACTED]
 21 [REDACTED] sentence?
 22 A. Yes, I do.
 23 Q. And it goes on to say, [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

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1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 THE STENOGRAPHER: Three rounds?
 5 BY MR. TOBIN:
 6 Q. [REDACTED] I
 7 apologize.
 8 What's your basis for that
 9 statement?
 10 A. You mean beyond Exhibit 5?
 11 Q. Yeah. Well, I guess you're saying
 12 Exhibit 5 is your basis for that statement.
 13 Is there anything else that you have that --
 14 as evidence?
 15 A. I think -- I mean, Exhibit 5 is my
 16 basis for that statement. But, you know,
 17 I've been studying this industry for the last
 18 26 years, or whatever it is, and I've
 19 witnessed it firsthand, and all of the data
 20 reflects that.
 21 Q. Now, you've made the point, I
 22 believe in your report, that airlines
 23 generally have relatively thin profit
 24 margins, correct?
 25 A. That -- yeah, airlines compared to

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<p>1 other industries tend to have thinner profit 2 margins. I would agree with that statement, 3 yes. 4 Q. Okay. But that's been the case 5 since deregulation, right? I mean, that's 6 nothing new in the past five, ten years, 7 correct? 8 A. Yeah, I mean, it is a really, 9 really tough business. 10 Q. So they've always had thin profit 11 margins, at least since deregulation? 12 A. You know, there's some years that 13 are better than others. But, yeah, they have 14 not been amongst the most profitable by any 15 stretch of the imagination, parts of kind of 16 the broader U.S. economy. It's a very 17 competitive business. 18 Q. I guess the point is, they had 19 thin profit margins even before low-cost 20 carriers started taking a larger percentage 21 of the market as your Exhibit 5 tries to 22 argue, right? 23 A. I wouldn't quite agree with that. 24 I think that prior to the expansion of 25 low-cost carriers, airlines were doing -- the</p> <p style="text-align: right;">Page 118</p>	<p>1 A. It's a lot tougher now than it was 2 back then. But it's a tough business. 3 Q. And was then? I mean, if we're to 4 agree with what you say, you would agree it 5 was tough back then as well, right? 6 A. I mean, yeah, there's degrees of 7 toughness, I guess is what I'd say, but it 8 has become extremely competitive. 9 Q. Right. But you were the one that 10 compared it to the profit margins to other 11 industries, and the profit margins even 12 before the low-cost carriers started making a 13 significant impact [REDACTED], 14 were still lower than these other industries 15 you're talking about, right? 16 A. There's actually an exhibit we can 17 look at if you'd like. It's a tough 18 business. I mean, there's a lot of 19 pressures. There's fuel price volatility, 20 there's geopolitical risks. It's highly 21 cyclical. It's a tough business. 22 Q. And those pressures that you just 23 described all existed before low-cost 24 carriers started taking a significant -- a 25 more significant portion of the market as</p> <p style="text-align: right;">Page 120</p>
<p>1 large network carriers such as American, 2 Delta and United, and of course, going back 3 in time now to include the predecessor 4 carriers, you know, they -- they -- they -- 5 there was less downward pressure on prices 6 back then and their profits tended to be a 7 little bit higher. 8 Q. Okay. But you just made the 9 observation that the airline industry 10 currently has thinner profit margins than 11 other industries you could compare it to, 12 correct? Do you remember that testimony? 13 A. I do, yes. 14 Q. And that was the same before the 15 low-cost carriers started taking a 16 significant market share, the profit margins 17 may have been larger but they were still 18 thinner compared to other industries, 19 correct? 20 A. There's no doubt that the growth 21 of low-cost carriers has pressured profits, 22 but airlines are a very tough business, yes. 23 Q. Even before the low-cost carriers 24 started making this pressure that you just 25 described, correct?</p> <p style="text-align: right;">Page 119</p>	<p>1 [REDACTED], correct? 2 A. There have been -- yes, those are 3 factors that have always -- have made the 4 airline business challenging. 5 MR. TOBIN: I'm going to need a 6 short break. 7 THE VIDEOGRAPHER: The time is 8 11:48. We're going off the record. 9 (Recess taken at 11:48 a.m. to 12:26 p.m.) 10 THE VIDEOGRAPHER: We're back on 11 the record. The time is 12:26. 12 BY MR. TOBIN: 13 Q. Okay. Dr. Lee, let me just make 14 sure I understand. You have not conducted an 15 analysis of what American Airlines' share is 16 at any particular airport, correct? 17 A. As part of my report here? 18 Q. Correct. 19 A. Not as part of this report, no. 20 Q. Okay. For instance, I believe 21 Dr. Vasigh had, and I remember the exact 22 number, but I believe he had calculated a 23 percentage of American's share -- market 24 share at Dallas Fort Worth. 25 As part of your retention here,</p> <p style="text-align: right;">Page 121</p>

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<p>1 you don't have any reason to either agree or 2 disagree with that number, right?</p> <p>3 A. I'm not sure actually that 4 Dr. Vasigh has calculated anything. If you 5 point me towards the part of his report, 6 maybe you could refresh my memory. I saw him 7 maybe cite some statistic that was someone 8 else's statistic, but I don't think I saw any 9 calculations that Dr. Vasigh performed.</p> <p>10 Q. Okay. Maybe calculation was a 11 poor chose of word.</p> <p>12 But you saw where he cited 13 percentage of market share at specific 14 airports, correct?</p> <p>15 A. Maybe you can point me to his -- 16 part of his report, specifically, because... 17 (Exhibit 2, Hidden-city travel and its 18 impact on passengers, implications for the 19 traveling public, Dr. Bijan Vasigh, marked 20 for identification.)</p> <p>21 BY MR. TOBIN:</p> <p>22 Q. I've handed you Exhibit 2. 23 Do you recognize that as 24 Dr. Vasigh's report that you reviewed in this 25 case?</p> <p style="text-align: right;">Page 122</p>	<p>1 clear, at least from the way it's been quoted 2 here, what that 84 percent is computed on.</p> <p>3 Q. Let's pick each and every one of 4 those that you just listed.</p> <p>5 Do you have reason to believe that 6 American does not currently have 84 percent 7 of the market share in any one of those 8 categories?</p> <p>9 A. I would have to do the calculation 10 myself to determine what it is. Again, it's 11 just -- he's quoting an Airport World 12 article, looking at Footnote 8, and, so, 13 again, I would just need to independently 14 verify it.</p> <p>15 Q. Okay. I'll tell you what, give me 16 every single reason and piece of evidence 17 that you have to disagree with the statement 18 in Dr. Vasigh's report that "American 19 currently has about 84% of the market share 20 at DFW, making it the largest carrier at the 21 airport."</p> <p>22 A. I don't disagree with the 23 proposition that American is the largest 24 carrier at DFW. But all I'm saying, and I 25 think you're asking if I agreed with the 84</p> <p style="text-align: right;">Page 124</p>
<p>1 A. I do, yes.</p> <p>2 Q. Okay. If you could turn to page 3 10 of the report.</p> <p>4 You see in the first full 5 paragraph, last sentence, "American currently 6 has about 84% of the market share at DFW, 7 making it the largest carrier at the 8 airport"? I guess he cites to this Airport 9 World.</p> <p>10 You don't have any reason to 11 disagree with that sentence, correct?</p> <p>12 A. Well, only in the sense that I 13 haven't validated the statistic, and it's not 14 a hundred percent clear from at least the 15 quote here what this market share is 16 referring to. It just says "market share." 17 It doesn't say what the market share was.</p> <p>18 Q. It says "market share at DFW." 19 You understand DFW to be DFW 20 International Airport, right?</p> <p>21 A. I understand that, but it doesn't 22 say what the 84 percent is of. Is it of 23 daily departures? Is it of destinations? Is 24 it of seats? Is it of O&D passengers? Is it 25 of domestic-only passenger? It's just not</p> <p style="text-align: right;">Page 123</p>	<p>1 percent number, I said I don't know from what 2 is written here how that is calculated. So 3 maybe it's 81. Maybe it's 85. I'm just 4 not -- I'd have to go back and independently 5 verify what it is.</p> <p>6 Q. Yeah. But my question is, do you 7 have any evidence or reason to disagree with 8 this statement?</p> <p>9 A. Well, I'm neither agreeing or 10 disagreeing. I'm just telling you that it is 11 not defined how that -- what that market 12 share is of.</p> <p>13 MR. TOBIN: Objection, 14 nonresponsive.</p> <p>15 BY MR. TOBIN:</p> <p>16 Q. Are you going to answer my 17 question. My question is, do you have any 18 evidence -- because I can get a judge to make 19 you answer my question.</p> <p>20 Do you have any evidence that 21 supports you disagreeing with that statement 22 that we've just been talking about?</p> <p>23 A. I said I'm neither agreeing or 24 disagreeing. What I'm telling you is that if 25 someone tells me that a market share is 84</p> <p style="text-align: right;">Page 125</p>

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<p>1 percent, my question is going to be market 2 share of what?</p> <p>3 Q. Do you have any evidence to 4 disagree with this statement, supports 5 disagreement with that statement?</p> <p>6 A. I'm not --</p> <p>7 Q. Yes or no?</p> <p>8 A. I'm neither agreeing or 9 disagreeing. All I'm telling you is that as 10 a person who spends their life analyzing 11 airline data, I want to be a little bit more 12 precise and understand what this market share 13 calculation is of.</p> <p>14 Q. Have you ever heard the term "hub 15 premium"?</p> <p>16 A. I have heard that term.</p> <p>17 Q. Is that an industry term of art?</p> <p>18 A. It's a term that has been used in 19 the airline industry.</p> <p>20 Q. What do you believe it means?</p> <p>21 A. Hub premium -- you know, different 22 people have used it different ways. I tend 23 to think of hub premium as for a carrier that 24 operates a hub, whether or not they charge 25 higher prices -- I would say probably per</p> <p style="text-align: right;">Page 126</p>	<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED].</p> <p>7 Q. [REDACTED] 8 A. [REDACTED] 9 [REDACTED]</p> <p>10 Q. Would you agree with Dr. Phiroz's 11 statement, at least to the extent that 12 airlines at their hubs receive less 13 competition than at a nonhub?</p> <p>14 A. Not at all. As I've shown in my 15 report, you know, I think I have another 16 exhibit, I'm happy to explain. But, for 17 example, Exhibit 9 of my report shows [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>25 Q. So, for instance, you do not</p> <p style="text-align: right;">Page 128</p>
<p>1 mile -- for passengers traveling to and from 2 the hub, as opposed to passengers that are 3 traveling over or through the hub.</p> <p>4 Q. Okay. Do you believe American 5 currently does that practice?</p> <p>6 A. Well, as I've shown in my report, 7 there is no evidence of hub premium, and I 8 could happily point you to the exhibit, if 9 you'd like to talk --</p> <p>10 Q. Are you talking about the one on 11 page 9. Oh, no, sorry, that was a --</p> <p>12 A. I think it's -- I think it's page 13 16, Exhibit 7.</p> <p>14 Q. I think your point is, the data 15 that you analyze -- let me just make sure I 16 understand your point.</p> <p>17 [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>21 A. That's correct. Is that the -- 22 you know, if anything, if I -- you know, [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p style="text-align: right;">Page 127</p>	<p>1 believe that American faces less competition 2 in Dallas than it does in Salt Lake City?</p> <p>3 A. Well, I think Dallas is incredibly 4 competitive. As you can see from Exhibit 9, 5 [REDACTED] [REDACTED]. I haven't looked at Salt 6 Lake City, but Salt Lake City would be 7 [REDACTED], with respect to 8 people traveling from Salt Lake City via DFW 9 to other parts on American's network.</p> <p>10 Q. Give me the name of an American 11 hub city?</p> <p>12 A. Dallas.</p> <p>13 Q. Give me the name of an American 14 nonhub city, where American actually has at 15 least a portion of the market share?</p> <p>16 A. We can go with Salt Lake City.</p> <p>17 Q. Okay. So do you believe that 18 American is every bit as competitive -- or I 19 should say other airlines are every bit as 20 able to compete with American in Dallas as 21 they are in Salt Lake City?</p> <p>22 A. Dallas is intensively competitive.</p> <p>23 Q. Yes or no, to my question. I can</p> <p style="text-align: right;">Page 129</p>

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<p>1 have the court reporter read my question 2 back. It was a simple yes-or-no question. 3 Could you please read it back. 4 THE STENOGRAPHER: I'll have to 5 check it. 6 BY MR. TOBIN: 7 Q. Let me ask the question, then. 8 Do you believe that other carriers 9 have -- are every bit as competitive with 10 American in Dallas just as they are in Salt 11 Lake City? 12 A. It would depend on the place 13 you're going to from Salt Lake City, but 14 yeah, I would think that, you know, Dallas is 15 super competitive. You know, you're in 16 Southwest's backyard as well, and there's a 17 lot of low-cost competition there. Probably 18 more in Dallas than there might be in Salt 19 Lake City. 20 Q. So you believe the answer to my 21 question is yes? 22 A. I believe that American faces 23 intense competition at Dallas, and they face 24 intense competition in Salt Lake City. 25 Q. Okay. Now, for instance, Section</p> <p style="text-align: right;">Page 130</p>	<p>1 I think that in his report he is almost 2 taking it at face value that these 3 hidden-city tickets that are being sold are 4 actually providing consumers with a fare 5 savings where, at least in my experience from 6 spending some time on the Skiplagged website, 7 my experience was that because of the 8 misleading practices, it wasn't providing the 9 lowest fair. 10 Q. Same question as to Section B, 11 [REDACTED] 12 [REDACTED] It's a bit of a tongue 13 twister. But that section, would you agree, 14 it's not a direct critique on either 15 Dr. Vasigh or Dr. Phiroz's opinions? 16 A. I'm not sure I would fully agree 17 with that. I'm not sure I would agree with 18 that. I think that this is a response to 19 them. As you can see from the cited 20 footnotes. You know, just at the first 21 paragraph of Footnote 24, I'm explaining -- 22 like there's a predicate assumption in their 23 reports, that the reason for the existence of 24 Skiplagged and hidden-city tickets is to kind 25 of circumvent these monopoly positions, as</p> <p style="text-align: right;">Page 132</p>
<p>1 C in your report, it talks about 2 [REDACTED] 3 [REDACTED] is that fair? 4 MR. MUYSKENS: Are you on 30? 5 MR. TOBIN: Yes, I am. 6 A. That's correct. 7 BY MR. TOBIN: 8 Q. Now, generally, I'm understanding 9 that that section is not a critique of 10 Dr. Vasigh's or Dr. Phiroz's reports but 11 rather something in addition that you're 12 offering about the case; is that correct? 13 A. Well, I do think that -- that -- 14 that Dr. Vasigh, when he speaks at 15 hidden-city tickets is not really looking at 16 the full picture, and what I'm explaining 17 here is that when one actually looks at the 18 complete picture of, you know, the products 19 that Skiplagged is putting out there in the 20 marketplace, if passengers were actually 21 fully aware -- or consumers were fully aware 22 of how misleading they can be, then it really 23 changes the whole calculus, I think, that 24 he's performing in his report. 25 So it's not a direct critique, but</p> <p style="text-align: right;">Page 131</p>	<p>1 they say that -- how airlines have their hub 2 airports. And what this is describing is no, 3 there's actually a much more innocuous reason 4 why these exist, and so it's kind of 5 providing a counterargument to Dr. Vasigh. 6 But I would disagree with your 7 statement. 8 Q. Okay. Well, let's go to page 27 9 in Section B. And you're talking about the 10 evidence reflects [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 A. Yes. 17 Q. I'm sorry if I wasn't completely 18 following that, and I see your footnote, but 19 it directs me to other footnotes. 20 So if you can just tell me, what 21 is the basis for that statement or the 22 evidence that you're relying on for that 23 statement? 24 A. Are you talking about the sentence 25 that begins --</p> <p style="text-align: right;">Page 133</p>

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<p>1 Q. With "rather"?</p> <p>2 A. "Rather, they reflect"?</p> <p>3 Q. Correct.</p> <p>4 A. Well, I think I describe -- in</p> <p>5 that particular thing I'm referring you back</p> <p>6 to the earlier analysis in paragraph 19 of</p> <p>7 Footnote 42, where I was actually analyzing</p> <p>8 the city pairs or the markets that Dr. Vasigh</p> <p>9 was looking at, and I think one of the</p> <p>10 markets in particular I think I was looking</p> <p>11 at there was, if I recall -- was it New</p> <p>12 Orleans to Austin? And, you know, he has in</p> <p>13 his, whatever it was, Exhibit D to his, he</p> <p>14 kind of holds up that as being a hidden-city</p> <p>15 opportunity and that that's a reflection of</p> <p>16 some type of market power.</p> <p>17 And I said, wait, like listen, if</p> <p>18 you're traveling from New Orleans to Austin,</p> <p>19 Southwest is flying -- I don't know what is</p> <p>20 it? -- five flights a day or four flights a</p> <p>21 day between -- nonstop between Austin and New</p> <p>22 Orleans; whereas American has to -- for them</p> <p>23 to take you between New Orleans and Austin,</p> <p>24 you have to make a connection at DFW and that</p> <p>25 adds -- you know, I could point you to the</p> <p style="text-align: right;">Page 134</p>	<p>1 lower prices than it otherwise would if it</p> <p>2 served New Orleans to Austin nonstop, because</p> <p>3 it has to not over over -- it has to overcome</p> <p>4 the fact that, you know, you're going to add</p> <p>5 another two hours to this journey, which is</p> <p>6 not a particularly long journey.</p> <p>7 So that is competition. That's</p> <p>8 vigorous competition. And what Dr. Vasigh is</p> <p>9 trying to contort that into is some kind of</p> <p>10 notion that American is exercising some kind</p> <p>11 of market power between Dallas and Austin,</p> <p>12 and how can that be when Southwest offers,</p> <p>13 you know, eight or nine or ten flights a day</p> <p>14 in that market.</p> <p>15 Q. But both those legs right, Dallas</p> <p>16 to New Orleans and Dallas to Austin, have</p> <p>17 multiple flights from both carriers, right?</p> <p>18 A. On the two components of Austin to</p> <p>19 New Orleans, they do, yes.</p> <p>20 Q. Okay. So, I mean, under your</p> <p>21 logic, they're not both competitive, right?</p> <p>22 A. No, but you're -- but you're --</p> <p>23 I'm sorry. Please ask your question. I</p> <p>24 interrupted.</p> <p>25 Q. Under your logic, both legs are</p> <p style="text-align: right;">Page 136</p>
<p>1 parts of my report where it describes the</p> <p>2 added time, making a connection.</p> <p>3 So, yeah, so American sometimes</p> <p>4 prices that very aggressively in order to</p> <p>5 compete with Southwest nonstop service. So</p> <p>6 it's competition that's driving on that O&D,</p> <p>7 that lower fare. It has nothing to do with</p> <p>8 market power.</p> <p>9 Q. If they could lower the Austin to</p> <p>10 Dallas flight as well, right, it's the direct</p> <p>11 flight that's offered from Austin to Dallas,</p> <p>12 that could be lowered, right?</p> <p>13 A. They base -- what is it? Like ten</p> <p>14 flights a day, competition from Southwest on</p> <p>15 that. That is a competitive route. What I'm</p> <p>16 saying is that they're flying head to head</p> <p>17 against Southwest between Dallas and Austin.</p> <p>18 Those two carriers are just battling it out,</p> <p>19 day in and day out, okay, with the premium at</p> <p>20 low-cost carrier, right?</p> <p>21 On Austin to New Orleans, American</p> <p>22 is at a disadvantage, right, because it has</p> <p>23 to connect people over Dallas, and so it</p> <p>24 comes as no surprise to me that sometimes</p> <p>25 American will offer -- have to -- offer even</p> <p style="text-align: right;">Page 135</p>	<p>1 competitive, right?</p> <p>2 A. Those two legs are highly</p> <p>3 competitive, but where the hidden-city</p> <p>4 opportunity exist that he identifies, one of</p> <p>5 them is Austin to New Orleans, and then</p> <p>6 Austin to New Orleans, that is a city pair in</p> <p>7 which American doesn't serve nonstop, okay,</p> <p>8 but Southwest does.</p> <p>9 So now Southwest has this other</p> <p>10 advantage, putting aside its cost advantage,</p> <p>11 it has yet another advantage, which is it</p> <p>12 flies, a document in my report, I don't know,</p> <p>13 it's like three or four daily nonstop</p> <p>14 flights. And American, the only way it can</p> <p>15 take people between New Orleans and Austin is</p> <p>16 by connecting them over DFW. I mean, you can</p> <p>17 connect in other places as well but that</p> <p>18 would be the primary way.</p> <p>19 So to me it is not surprising at</p> <p>20 all, that on occasion, in order to better</p> <p>21 compete against Southwest, which offers this</p> <p>22 nonstop product versus American's connecting</p> <p>23 product, it has to cut -- it has to be even</p> <p>24 more aggressive on pricing to try to woo some</p> <p>25 of these passengers who can fly nonstop.</p> <p style="text-align: right;">Page 137</p>

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<p>1 Q. So you're admitting both legs are 2 competitive, but you just believe that the 3 Austin to New Orleans leg -- or flight is 4 hypercompetitive because Southwest offers a 5 direct flight from Austin to New Orleans? 6 A. What I'm saying is that American 7 is competing against -- whereas on the 8 component legs, okay, on an O&D basis, 9 they're going head to head with nonstop 10 service. 11 On these other routes, these 12 connecting routes, which is for American a 13 connecting route but for Southwest a nonstop 14 route, okay, that puts American -- you know, 15 it needs to do something in order to convince 16 people that would otherwise fly Southwest to 17 fly on American, notwithstanding the fact you 18 have to make a connection; it's going to take 19 you a couple hours longer because of that 20 connection or 90 minutes longer. 21 And so, yeah, one the things it 22 does to compete against that is to offer even 23 more aggressive pricing. 24 Q. But that's an argument you're 25 making. You don't have written evidence of</p> <p style="text-align: right;">Page 138</p>	<p>1 Orleans to Austin? I can't remember. 2 A. I mean, it really doesn't matter. 3 Q. If it doesn't matter, New Orleans 4 to Austin, right, you didn't review any 5 actual evidence or data or documents as to 6 why American's pricing that route the way 7 it's pricing it, correct? 8 A. I mean, I think what you need to 9 do is keep in mind that what I'm doing, in 10 this particular analysis and much in my 11 report -- 12 Q. Dr. Lee, I'm sorry -- I'm sorry 13 to interrupt you. But you have got to answer 14 a yes-or-no question, or we are going to have 15 to get the judge to make you do that. 16 So yes or no, did you review any 17 documents, evidence, data, or did you talk to 18 any American personnel as to how they price 19 that particular route? 20 A. I think I've already answered that 21 question, which is that I've spoken to no 22 American individuals, and if I -- what I was 23 saying is that I am responding to an exhibit 24 of Dr. Vasigh, where he holds that out as 25 being a hidden city -- you know, a hub</p> <p style="text-align: right;">Page 140</p>
<p>1 that. In other words, you didn't review 2 materials from American that says this is the 3 way we do our pricing and this is why we even 4 lower our pricing even more on this 5 particular Austin to New Orleans ultimate 6 destination because of the reasons you're 7 articulating, right? 8 A. Well, I know that carriers out 9 there are doing everything they can to 10 compete with lower-cost carriers day in and 11 out, and they price on an O&D basis. 12 Q. But you didn't interview anybody 13 at American? You didn't review any materials 14 that reflected what their pricing strategy 15 was on any of these routes, right, this is 16 just your general knowledge in the industry 17 that you're relying on, correct? 18 A. Well, I did not interview anyone 19 at American. I know from studying and having 20 worked in this industry for 26 years that 21 every day that American and other large 22 network carriers go into the marketplace and 23 are battling it out for every customer. 24 Q. This particular New Orleans to 25 Austin -- is it Austin to New Orleans or New</p> <p style="text-align: right;">Page 139</p>	<p>1 premium, as he calls it, I think, and I'm 2 explaining the reason for what he's observing 3 is being driven by American's attempt to be 4 competitive on a route where they don't offer 5 nonstop service against Southwest, which 6 does. 7 Q. Do you have anything else to add 8 to that answer to my question? 9 A. No, I think I'm satisfied with my 10 answer. 11 Q. Now, if we go to Section C, we 12 were there a minute ago, I think it was on 13 page 34, maybe example 15 -- excuse me -- 14 Exhibit 15. 15 A. Okay. 16 Q. Now, I agree that the copy quality 17 of that chart is not great. 18 But do you remember the particular 19 route this is describing? 20 A. Well, the one part I can't see 21 here and recall is this is from Boston to 22 Dallas. 23 Q. And that's actually -- 24 A. That you can see that, yeah. 25 Q. Now, you didn't run an analysis --</p> <p style="text-align: right;">Page 141</p>

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<p>1 you brought this one example up, but you 2 didn't run an analysis to see how often this 3 situation happens where the total net cost to 4 the customer through Skiplagged facilitating 5 a transaction ends up to be higher than what 6 the quote was from American Airlines, right? 7 A. I was not asked to perform that 8 analysis, no. 9 Q. This was just a spot example, 10 correct? 11 A. This is an example of what 12 happened when I did it, yeah. 13 Q. Okay. And were you told to go to 14 that particular route our did you pick that 15 route on your own? 16 A. No, it's a route that I picked it 17 on my own. I mean, I'm -- obviously I live 18 in Boston and Dallas was featured prominently 19 Dr. Vasigh's report so I thought it would be 20 a good route to look at. 21 Q. Okay. And you particularly call 22 out -- now, what was the difference in time 23 between looking at the two situations, the 24 quote through American versus the quote 25 through Skiplagged?</p> <p style="text-align: right;">Page 142</p>	<p>1 the statement in American -- or, excuse me, 2 in Skiplagged's menus that apparently you 3 went through where apparently it said you're 4 saving \$21 compared to other websites, 5 correct? 6 A. Ah, yes, that is correct. 7 Q. And you try to describe that as -- 8 generally as misleading, correct? 9 A. , I felt it was quite misleading. 10 Q. But you're familiar with -- that 11 American does offer its fares through 12 multiple different vendors, right, it's not 13 just the American Airlines website, right? 14 A. That is correct. 15 Q. So it's possible that there was a 16 \$21 savings compared to that flight being 17 offered, let's say, through Expedia or 18 another vendor that American uses, correct? 19 A. Well, it's always possible, but I 20 think what I'm pointing out in this example, 21 which is really why I wanted to ask you which 22 example we were looking at, is that the \$21 23 fare savings that purported to exist was with 24 the first price that Skiplagged offered to me 25 in the process. So then I pulled out my</p> <p style="text-align: right;">Page 144</p>
<p>1 A. Sorry. Are you now referring to 2 paragraph 36 or are you still -- there's two 3 examples, right, there's two examples done on 4 different days. They both use Boston to 5 Dallas, but I just want to make sure we're 6 talking about the same example. 7 Q. Okay. Well, either example -- 8 A. Yeah. 9 Q. -- because I couldn't understand 10 from your report -- 11 A. Yeah. 12 Q. -- how close in proximity and time 13 you were obtaining these quotes. 14 A. I was doing it in real-time on 15 both. 16 Q. Okay. So you got a quote from 17 Skiplagged -- 18 A. Yeah. 19 Q. -- and then immediately went and 20 got that same quote, or on the same leg, I 21 should say -- 22 A. Yeah. 23 Q. -- from the American website? 24 A. Correct. 25 Q. Now, particularly, you call out</p> <p style="text-align: right;">Page 143</p>	<p>1 credit card, I entered all my information. I 2 actually purchased the ticket. 3 And from the time that I was first 4 informed that I had been saving \$21 to the 5 time that I entered in my information, my 6 credit card information and went to purchase 7 it, Skiplagged increased the price twice. 8 Okay. So the price went up twice, and they 9 continued to tell me that I was saving \$21, 10 even though within this, like, couple-minute 11 period the price went up twice. And then 12 after I went and purchased the ticket, with 13 the price having gone up twice, I then went 14 back to American's website, okay, and I could 15 have got the price for lower. 16 Q. Let me make sure I understand the 17 process you went through. 18 When you were navigating the 19 Skiplagged website, it informed you of the 20 increase in price before you actually 21 purchased the ticket? 22 A. Yes, I went to purchase -- I think 23 I just describe it quite clearly in my 24 report. 25 But I initially went to hit</p> <p style="text-align: right;">Page 145</p>

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<p>1 purchase. They said, oh -- the price has 2 gone up, and it said the price has gone up 3 by, you know, the first time it said it went 4 up by -- I think it was like up to 177, they 5 said please hit refresh, sorry for the 6 inconvenience, and then at the next step it 7 actually increased it again, and then I 8 purchased the ticket.</p> <p>9 I got an email confirmation like a 10 minute later and that email confirmation 11 continued to tell me that I had saved \$21, 12 even though the \$21 was based off the initial 13 price, which was, like, \$40 less.</p> <p>14 Q. But both -- I want to make sure I 15 understand.</p> <p>16 Both situations you or the 17 consumer had the opportunity not to purchase 18 the price with -- purchase the ticket, I 19 should say, with the knowledge that the fare 20 had actually gone up, right?</p> <p>21 A. Yeah, I was never charged -- it 22 wasn't as though, like, I go get my credit 23 card statement and it was more than I had 24 agreed to pay. I'm not suggesting that they 25 charged my credit card for more than I was</p> <p style="text-align: right;">Page 146</p>	<p>1 fly by offering me this fare at the first 2 surge of whatever it was, 153, or whatever, 3 telling me at that moment in time that's the 4 lowest fare. So I hit yeah. I would go and 5 get that.</p> <p>6 I entered my credit card 7 information. The fare goes up twice. It's 8 still telling me I'm saving \$21, that that 9 \$21 save has never changed on any part of the 10 Skiplagged communication to me. But what 11 Skiplagged wasn't doing, was saying, well, 12 wait, maybe, actually, because that fare had 13 gone up on the hidden city, like, why not 14 check actually Boston to Dallas, which is 15 really where this person is trying to go to, 16 and see whether or not it's offering the 17 savings.</p> <p>18 It didn't do that, and because of 19 that I paid more than I would have had to pay 20 if I just gone ahead and bought the ticket on 21 American or on another website, an 22 unauthorized agent of American, and gotten 23 that ticket, the nonstop flight, could 24 have got my AAdvantage miles, could have 25 brought a carry-on bag, didn't have to</p> <p style="text-align: right;">Page 148</p>
<p>1 told.</p> <p>2 Q. Okay. And that was -- as we 3 talked about with dynamic pricing, that is 4 possible in American's revenue management 5 cycle, the way they ultimately price tickets 6 is fares change day to day and even sometimes 7 minute to minute, correct?</p> <p>8 A. Yeah, but the problem here, as I 9 describe in my report, is because Skiplagged 10 never went back -- it was like looking at 11 this hidden-city opportunity, you know, I had 12 a price at one moment in time, and yeah, 13 maybe that moment in time did exist and maybe 14 hypothetically, in the moment between that 15 initial quote and the time I entered in my 16 credit information, maybe the price on the 17 hidden-city ticket went up. Okay.</p> <p>18 But it never goes back then and 19 compared it to just, oh, what if I bought the 20 nonstop flight, and that is the flight that 21 didn't go up. That stayed the same. So what 22 I really want to do, the Skiplagged 23 passenger -- I'm sorry -- customer, here I'm 24 a Skiplagged customer, I just want to fly 25 from Boston to Dallas. And it entices me to</p> <p style="text-align: right;">Page 147</p>	<p>1 violate American's contract of carriage, so 2 that, to me, I felt like I had been 3 bait-and-switched there.</p> <p>4 Q. That's your own personal reaction? 5 A. I mean, I travel a lot.</p> <p>6 Q. Well, if you travel a lot, you've 7 been on -- you've certainly been on 8 American's website before where you've 9 tried -- do you book your own flights? 10 A. Often I do, yes.</p> <p>11 Q. So you've certainly been on 12 American's website, I would assume, where 13 you've gone to book a flight on a particular 14 class of seat to a particular location and it 15 interrupts somewhere through process and 16 says, well, that fare or that seat is no 17 longer available, right, and it's a new fare?</p> <p>18 A. I mean, quite honestly, I have not 19 personally had that experience on American, 20 and keep in mind, while I was always -- while 21 I was doing these Skiplagged searches, I had 22 a separate American window going on as well. 23 That did not happen to me.</p> <p>24 Q. Ever? 25 A. Well, during these searches it</p> <p style="text-align: right;">Page 149</p>

<p>1 hadn't.</p> <p>2 Q. That wasn't my question, during</p> <p>3 these searches.</p> <p>4 My question was, certainly you've</p> <p>5 been on American's website trying to book a</p> <p>6 flight where somewhere through the process it</p> <p>7 stops you and says that seat at that price is</p> <p>8 no long available, right?</p> <p>9 A. I do not recall having a situation</p> <p>10 where once I got to the point where I was</p> <p>11 entering in credit card information, that the</p> <p>12 fare had changed. I have certainly been</p> <p>13 shopping for airfares where I check on</p> <p>14 Tuesday or I check -- you know, during the</p> <p>15 day, see what the prices look like, figure I</p> <p>16 want to wait until I get home, talk to my</p> <p>17 wife, figure out if those days work, and then</p> <p>18 yeah, the fares have changed. Sometimes</p> <p>19 they're higher. Sometimes they're lower. I</p> <p>20 put it off for a day, whatever, and the fares</p> <p>21 changed. That's happened to me.</p> <p>22 I can't tell you, as I sit here</p> <p>23 right now, that I've had a situation where I</p> <p>24 have got to the point where I am just</p> <p>25 entering in credit card information and the</p> <p style="text-align: right;">Page 150</p>	<p>1 twice.</p> <p>2 Q. And this is just what you</p> <p>3 observed, right?</p> <p>4 I mean you talk a number of times</p> <p>5 in your report about Skiplagged's intent, and</p> <p>6 they intentionally do this or that. You</p> <p>7 don't really have evidence or knowledge of</p> <p>8 what Skiplagged's intent was when it was</p> <p>9 programming its program and creating its</p> <p>10 algorithm, right, you're just talking about</p> <p>11 what you observed in navigating the</p> <p>12 Skiplagged website, correct?</p> <p>13 A. Well, I'm not sure what you mean</p> <p>14 by "intent." I know the intent of</p> <p>15 Skiplagged, as I understand this case and as</p> <p>16 I understand their business, is to offer</p> <p>17 hidden-city ticket opportunities. Okay? So</p> <p>18 that I believe is their intent.</p> <p>19 Do I believe that they foresaw</p> <p>20 what happened to me and, you know,</p> <p>21 intentionally programmed it in, I don't know</p> <p>22 one way or another. I'm just -- I'm</p> <p>23 explaining what happened to me, and I'm</p> <p>24 explaining why the proposition that is</p> <p>25 really, I think, foundational to Dr. Vasigh's</p> <p style="text-align: right;">Page 152</p>
<p>1 fare has changed.</p> <p>2 Q. But you're not disagreeing with</p> <p>3 Skiplagged's practice of alerting the</p> <p>4 customer before it buys the ticket from</p> <p>5 American. I mean, you realize they're buying</p> <p>6 this ticket from American, these are</p> <p>7 American's prices, right?</p> <p>8 A. I agree with you these are</p> <p>9 American's prices, but what I'm telling you,</p> <p>10 and I think what the crux of this -- of the</p> <p>11 problem was in this example, was that it</p> <p>12 is -- once you've chosen that ticket and</p> <p>13 you're going down the path of buying the</p> <p>14 hidden-city ticket, and if the price of that</p> <p>15 hidden-city ticket goes up, because, for</p> <p>16 example, American had raised its price, it</p> <p>17 was the last seat and certain inventory was</p> <p>18 sold and now you're continuing the inventory,</p> <p>19 it would stand to reason that if I really</p> <p>20 just want go from Boston to Dallas, that what</p> <p>21 it should be doing is comparing what the</p> <p>22 actual prices are on Boston to Dallas at that</p> <p>23 time, if it's going to represent to me that I</p> <p>24 am saving \$21, because I was by no means</p> <p>25 saving \$21, given that the fare had gone up</p> <p style="text-align: right;">Page 151</p>	<p>1 opinions that Skiplagged is affording people</p> <p>2 these lower fares, is not necessarily true</p> <p>3 because, in my own experience, it was telling</p> <p>4 me it was a lower fare, when, in fact, it</p> <p>5 wasn't.</p> <p>6 Q. Starting on page 37, going with</p> <p>7 Exhibit 17, and I think going on into</p> <p>8 paragraph 38, which continues on to page 38,</p> <p>9 you're talking about examples or attributes</p> <p>10 to the American product that are being -- I</p> <p>11 believe you used the word "degrading."</p> <p>12 You remember that part of your</p> <p>13 report?</p> <p>14 A. I do, yes.</p> <p>15 Q. Okay. I just want to make sure I</p> <p>16 understand. That's your personal opinion,</p> <p>17 you didn't actually do any analysis? Like</p> <p>18 you're not here to offer any type of damage</p> <p>19 testimony or put any type of valuation on</p> <p>20 what this alleged degrading ultimately</p> <p>21 resulted in, correct?</p> <p>22 A. I have not been asked to render</p> <p>23 any opinions on damages.</p> <p>24 Q. So this is just an observation</p> <p>25 you're making. It is not part of an analysis</p> <p style="text-align: right;">Page 153</p>

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<p>1 to try and quantify or put an order of 2 magnitude on this alleged degrading, correct? 3 A. I have not been asked to quantify 4 the degree of degrading. What I'm pointing 5 out here is that as a nonauthorized -- as a 6 nonagent of American, they're not an 7 authorized agent, they are intentionally 8 degrading the product. 9 Q. Intentionally. You have knowledge 10 of their intent? 11 A. Well, they say it. I mean, I 12 don't know what's in the minds of whoever 13 wrote the code, but what I'm telling you is 14 that throughout the process, Skiplagged told 15 me only -- backpack only. Do not attempt to 16 bring a piece of carry-on luggage after I 17 bought the ticket. Skiplagged sent me an 18 email telling me, do not associate my 19 frequent flyer miles. So that is their 20 intent, is to degrade the product. 21 Q. What other evidence, other than 22 what you just described, do you have that 23 Skiplagged intentionally attempted to degrade 24 American's products? 25 A. I mean, that I think is -- they</p> <p style="text-align: right;">Page 154</p>	<p>1 potential customer, you would have seen those 2 warnings and had the options to decide where 3 you take the carry-on bag or not, whether you 4 insert your frequent flyer mileage or not, 5 right, the consumer has the option, after 6 getting that information from Skiplagged, to 7 make that decision, correct? 8 A. Yeah, I certainly have the option, 9 but it comes with risks and Skiplagged 10 informs me of those risks. So yes, if I 11 decide I want to enter my frequent flyer 12 number and if I'm willing to bear the risk of 13 having my bank of AAdvantage miles taken away 14 or my status revoked, sure, but that to me is 15 a degradation of the product. 16 Q. Are you aware that American has 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 A. Not -- I don't have specific 23 knowledge. I understand just from being 24 around the industry that that can happen. 25 Q. Are you aware that they have</p> <p style="text-align: right;">Page 156</p>
<p>1 are -- they told me, that's what they told 2 me. 3 Q. I know you said that. But I asked 4 what other evidence do you have of 5 Skiplagged's intent to intentionally degrade 6 American's product? 7 A. I don't think I need any more than 8 that. I mean, they are instructing me to 9 forgo AAdvantage miles. They're instructing 10 me to not take a carry-on bag if I want to. 11 That is a degradation of the product that 12 American offers. It's an important part of 13 American's -- of value proposition to 14 consumers, is the fact that they offer 15 AAdvantage miles; the fact that their basic 16 economy tickets allow passengers to bring a 17 carry-on bag, whereas Spirit and Allegiant 18 and Frontier don't, without a fee. That's an 19 integral part of the value proposition that 20 American offers into the marketplace, and 21 Skiplagged is saying I can't do that or I 22 shouldn't do that or warning me against doing 23 it. 24 Q. But, Of course, in this example 25 where you were, at least theoretically, the</p> <p style="text-align: right;">Page 155</p>	<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 A. Again, as part of this analysis, I 5 haven't had any specific conversations with 6 people at American. But I've been working in 7 this industry for a long time, and I 8 understand that that's one of the things that 9 has been done. 10 Q. And you would at least agree that 11 it's possible that in this hidden-city 12 ticketing application, that American could 13 gain more revenue than if there wasn't a 14 hidden-city ticket application, correct? 15 A. I'm not sure what you mean by that 16 question. Could you -- 17 Q. Well, there's at least a scenario 18 where somebody gets off on a hidden city and 19 American is able then to sell that second leg 20 for more than the difference between a direct 21 flight and a hidden-city ticket, right? 22 A. Again, can you -- I'm having a 23 little trouble because of the temporal aspect 24 of what you're suggesting. So could you 25 maybe ask the question again. I just want to</p> <p style="text-align: right;">Page 157</p>

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<p>1 mare sure I understand.</p> <p>2 Q. So there's a possibility that</p> <p>3 consumer A buys a hidden-city ticket from</p> <p>4 Boston to San Antonio, going through Dallas</p> <p>5 Fort Worth, and there's a price for a Boston</p> <p>6 to Dallas direct flight that's slightly</p> <p>7 higher, let's say hypothetically. Okay?</p> <p>8 A. Okay.</p> <p>9 Q. The consumer purchases Boston to</p> <p>10 San Antonio through Dallas, flies to Dallas</p> <p>11 and gets off the flight.</p> <p>12 A. Yeah.</p> <p>13 Q. American then hypothetically is</p> <p>14 able to maybe put a passenger on the Dallas</p> <p>15 to San Antonio flight that could give them</p> <p>16 more value than what was the difference in</p> <p>17 ticketing between the direct flight from</p> <p>18 Boston to Dallas and the hidden city fare,</p> <p>19 correct?</p> <p>20 A. So are you thinking about a</p> <p>21 scenario -- I just want to make sure I</p> <p>22 understand where in the period of time</p> <p>23 between which that person lands in Dallas and</p> <p>24 walks out the terminal but before it's known</p> <p>25 to American that he's a no-show, because he</p> <p style="text-align: right;">Page 158</p>	<p>1 the counter, and so I don't understand that.</p> <p>2 Like, you can't have a bag that --</p> <p>3 I -- I -- I don't understand your scenario.</p> <p>4 I mean, like that -- that -- that -- the fact</p> <p>5 of the matter is that American doesn't know</p> <p>6 that the person is no-showing for that flight</p> <p>7 until it's kind of too late to actually sell</p> <p>8 that ticket to someone.</p> <p>9 Q. Do you know that for sure? Are</p> <p>10 you aware of situations where American has</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 A. [REDACTED]</p> <p>21 Q. [REDACTED]</p> <p>22 A. Yeah.</p> <p>23 Q. Are you aware that that's</p> <p>24 happened, that scenario has happened, [REDACTED]</p> <p>25 [REDACTED]</p> <p style="text-align: right;">Page 160</p>
<p>1 doesn't notify, I mean they're holding up</p> <p>2 that seat, they're holding that seat, that</p> <p>3 someone magically shows up at the airport</p> <p>4 when the gate is closing, and they realize</p> <p>5 that this person is no longer there and they</p> <p>6 sell that seat. Is that what you're --</p> <p>7 Q. That's a possibility or possibly</p> <p>8 even somebody is sitting on standby, and</p> <p>9 let's say the difference in fare was only 20</p> <p>10 bucks. Okay?</p> <p>11 A. Standby --</p> <p>12 Q. Hang on. Let me finish my</p> <p>13 example.</p> <p>14 So the difference in fare is only</p> <p>15 20 bucks, and the person on standby then gets</p> <p>16 to go on the flight from Dallas to San</p> <p>17 Antonio but he checks a bag and it costs him</p> <p>18 \$25. There's a scenario where American could</p> <p>19 gain more revenue by allowing the hidden-city</p> <p>20 ticket to happen and then putting another</p> <p>21 passenger on that second leg. That scenario</p> <p>22 at least exists, right?</p> <p>23 A. I don't understand the scenario,</p> <p>24 because that person that's sitting there is</p> <p>25 at the gate and the bag, you check the bag at</p> <p style="text-align: right;">Page 159</p>	<p>1 A. I'm not aware one way or another</p> <p>2 that that's happened, but I'll take that as a</p> <p>3 hypothetical.</p> <p>4 But now you're -- I think I'm</p> <p>5 trying to explain the situation as I</p> <p>6 understand it, where a person buys a ticket,</p> <p>7 a Skiplagged ticket for a hidden city, is</p> <p>8 [REDACTED];</p> <p>9 so now I've got, like, a no-show on Boston to</p> <p>10 Dallas, I've got a no-show on Dallas to San</p> <p>11 Antonio, had I known that -- it's a confusing</p> <p>12 example.</p> <p>13 And you're saying that later that</p> <p>14 day they zero out that itinerary and all of a</p> <p>15 sudden there's a new seat in inventory and</p> <p>16 that someone then walks up to the airport in</p> <p>17 Dallas, wanting to buy a seat at the ticket</p> <p>18 counter later in the day, and now there's a</p> <p>19 seat for them.</p> <p>20 Is that what you're suggesting?</p> <p>21 Q. Well, there are a number of</p> <p>22 scenarios there, right? I mean, we don't</p> <p>23 know [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p> <p style="text-align: right;">Page 161</p>

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<p>1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] 7 A. Well, I just don't understand what 8 your counterfactual is. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] So, I mean, sure, you can conjure up 13 any example you want, but that doesn't alter 14 the fact that these are tickets that, you 15 know, are not compliant with the contract of 16 carriage, and that in the kind of the but-for 17 world where it didn't exist, American would 18 have that inventory to sell to someone else 19 as well as. 20 Q. But, again, you're saying didn't 21 comply with the contract to carriage just as 22 a lay observation. You're not a lawyer that 23 did any legal analysis on that, correct? 24 A. Well, I -- again, I've read the 25 contract of carriage. It specifically</p> <p style="text-align: right;">Page 162</p>	<p>1 would be the Dallas-San Antonio segment. 2 Q. So the sentence reads, [REDACTED] [REDACTED] [REDACTED] [REDACTED] 6 What evidence do you have that on 7 American flights, when there are hidden-city 8 tickets, that [REDACTED] [REDACTED] 10 A. Well, based off my knowledge of 11 the industry and of American and of their 12 load factors, most flights go up with at 13 least some empty seats. 14 Q. Have you reviewed any data on 15 instances where a hidden-city ticket method 16 is employed and that [REDACTED] [REDACTED] 18 A. I haven't performed any specific 19 analysis because I wouldn't -- I didn't have 20 access to -- like if I had Skiplagged data 21 for something like that, I could try and do 22 that analysis. I don't have Skiplagged -- 23 all the Skiplagged tickets where people had 24 purchased hidden-city tickets. 25 I'm making just a general</p> <p style="text-align: right;">Page 164</p>
<p>1 prohibits the use of hidden-city tickets. 2 So I'm not making a legal 3 conclusion, but I'm just saying that I've 4 seen seeing the contract of carriage and I've 5 seen that it explicitly prohibits these 6 hidden-city tickets. 7 MR. TOBIN: Let's take a 8 five-minute break. 9 THE VIDEOGRAPHER: The time is 10 1:22. We're going off the record. 11 (Recess taken at 1:22 p.m. to 1:33 p.m.) 12 THE VIDEOGRAPHER: We're back on 13 the record. The time is 1:33. 14 BY MR. TOBIN: 15 Q. Dr. Lee, if you'll turn to page 43 16 of your report, and in particular I'd like 17 you to look at paragraph 42, the first 18 sentence, please. 19 A. Yes, I see that. 20 Q. Just so the record is clear, I 21 think I know what you mean, but just so the 22 record is clear. What do you mean by 23 "beyond-hub segment"? 24 A. Well, it would be in the example 25 that we've been talking about frequently. It</p> <p style="text-align: right;">Page 163</p>	<p>1 observation that, based off my knowledge and 2 experience of the airline industry generally 3 and American in particular, that the 4 majority -- beyond the majority of flights 5 have at least one empty seat when they 6 depart. 7 MR. TOBIN: At times, I believe 8 that Dr. Lee has been unnecessarily 9 evasive in this deposition. So I'm 10 going to reserve my right to recall him 11 or compel him to be here and answer my 12 questions, but subject to that, I pass 13 the witness at this time. 14 MR. MUYSKENS: I'm going to 15 respectfully disagree, but we're done. 16 Thank you very much. 17 THE VIDEOGRAPHER: The time is 18 1:36. We're going off the record. This 19 is the end of today's deposition of 20 Darin Lee, Ph.D. 21 THE STENOGRAPHER: Mr. Tobin, 22 you're ordering the original? 23 MR. TOBIN: Yes. 24 THE STENOGRAPHER: Mr. Muyskens, 25 are you ordering a copy?</p> <p style="text-align: right;">Page 165</p>

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<p>1 MR. MUYSKENS: Expedited, please.</p> <p>2 THE STENOGRAPHER: When for?</p> <p>3 MR. MUYSKENS: As soon as you can.</p> <p>4 THE STENOGRAPHER: Did you want</p> <p>5 expedited also?</p> <p>6 MR. TOBIN: Yeah, if they're going</p> <p>7 to get it, I guess we'll go ahead.</p> <p>8 (Deposition suspended at 1:37 p.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 SIGNATURE PAGE</p> <p>2 AMERICAN AIRLINES, INC. VERSUS SKIPLAGGED,</p> <p>3 INC. LTD.</p> <p>4</p> <p>5 I, the undersigned, declare under penalty</p> <p>6 of perjury that I have read the foregoing</p> <p>7 transcript, and I have made any corrections,</p> <p>8 additions or deletions that I was desirous of</p> <p>9 making; that the foregoing is a true and</p> <p>10 correct transcript of my testimony contained</p> <p>11 therein.</p> <p>12</p> <p>13 Executed this _____ day of</p> <p>14 _____,</p> <p>15</p> <p>16 at _____,</p> <p>17 (CITY) (STATE)</p> <p>18</p> <p>19 _____</p> <p>20 DARIN N. LEE, PH.D.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 166	Page 168
<p>1 COMMONWEALTH OF MASSACHUSETTS</p> <p>2 SUFFOLK SS.</p> <p>3</p> <p>4 I, Sandra A. Deschaine, Registered</p> <p>5 Professional Reporter and Notary Public</p> <p>6 within and for the Commonwealth of</p> <p>7 Massachusetts at large, do hereby certify</p> <p>8 that the deposition of Darin N. Lee, Ph.D., in</p> <p>9 the matter of American Airlines, Inc. versus</p> <p>10 Skiplagged, Inc., at the offices Greenberg</p> <p>11 Traurig, One International Place, Boston,</p> <p>12 Massachusetts, on July 11, 2024, taken and</p> <p>13 transcribed by me; that the witness provided</p> <p>14 satisfactory evidence of identification as</p> <p>15 prescribed by Executive Order 455 (03-13)</p> <p>16 issued by the Governor of the Commonwealth of</p> <p>17 Massachusetts; that the transcript produced</p> <p>18 by me is a true record of the proceedings to</p> <p>19 the best of my ability; that the witness is</p> <p>20 reading and signing; that I am neither</p> <p>21 counsel for, related to, nor employed by any</p> <p>22 of the parties to the action in which this</p> <p>23 deposition was taken, and further that I am</p> <p>24 not a relative or employee of any attorney or</p> <p>25 counsel employed by the parties thereto, nor</p> <p>financially or otherwise interested in the</p> <p>outcome of the action, on this 15th of July</p> <p>2024.</p> <p>20</p> <p>21 _____</p> <p>22 Registered Professional Reporter</p> <p>23</p> <p>24 My Commission Expires:</p> <p>25 July 5, 2024</p>	<p>1 ERRATA SHEET</p> <p>2 AMERICAN AIRLINES, INC. VERSUS SKIPLAGGED,</p> <p>3 INC. LTD.,</p> <p>4 DARIN N. LEE, PH.D. - JULY 11, 2024</p> <p>5</p> <p>6 Page Line Change/Correction</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>
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1 nathan.muyskens@gtlaw.com

2 July 15, 2024

3 RE: American Airlines, Inc. v. Skiplagged, Inc.

4 DEPOSITION OF: Darin N. Lee , PhD (# 6782850)

5 The above-referenced witness transcript is

6 available for read and sign.

7 Within the applicable timeframe, the witness

8 should read the testimony to verify its accuracy. If

9 there are any changes, the witness should note those
10 on the attached Errata Sheet.

11 The witness should sign and notarize the

12 attached Errata pages and return to Veritext at

13 errata-tx@veritext.com.

14 According to applicable rules or agreements, if

15 the witness fails to do so within the time allotted,

16 a certified copy of the transcript may be used as if

17 signed.

18 Yours,

19 Veritext Legal Solutions

20

21

22

23

24

25

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44 (Page 170)

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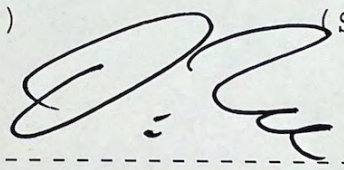
SIGNATURE PAGE

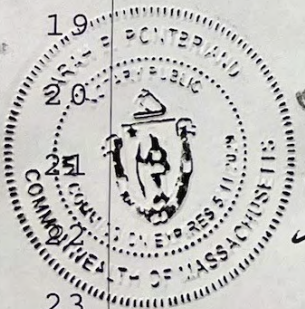
AMERICAN AIRLINES, INC. VERSUS SKIPLAGGED,
INC. LTD.

I, the undersigned, declare under penalty
of perjury that I have read the foregoing
transcript, and I have made any corrections,
additions or deletions that I was desirous of
making; that the foregoing is a true and
correct transcript of my testimony contained
therein.

Executed this 14th day of
August 2024,

at Boston, MA.
(CITY) (STATE)


DARIN N. LEE, PH.D.



Sarah P. Pontbriand
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Commission Expires
5/11/2029

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ERRATA SHEET

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DARIN N. LEE, PH.D. - JULY 11, 2024

Page	Line	Change/Correction
9	11	"first date of appointment" to "first data point"
10	11-12	"that I might assume" to "that it assumes"
12	6	"lower cost and network" to "lower cost network"
13	9	"is needed" to "isn't needed"
19	21	"in my direct" to "under my direct"
19	22	"in my report" to "on my report"
20	22	"Well, see," to "Well, let's see"
22	1	"earlier May" to "early May"
22	19	"off my heart" to "off by heart"
32	17	"--" to "of"
36	6	"per" to "per se"
38	10	"-- I had a" to "IATA"
40	11	"was DOT, with" to "was a DOT route"
44	22	"in millions" with "in the millions"
47	16	"him" to "them"
53	12	"liability" with "reliability"
57	2	"has the name" with "as the name"
57	17	"because of" with "because"

ERRATA SHEET

AMERICAN AIRLINES, INC. VERSUS SKIPLAGGED,
INC. LTD.,

DARIN N. LEE, PH.D. - JULY 11, 2024

Page	Line	Change/Correction
61	2	"in one of" to "it's one of"
65	3	"Southwest" to "itself"
65	4	"There're" to "They're"
71	3	"carrier might" to "carrier, it might"
71	23	"100 database" to "T-100 database"
79	25	"DC airport" to "DCA airport"
83	19	"domestic-only" with "domestic O&D"
83	20	"says decline" to "has declined"
94	6	"the night" to "the flight"
97	15	"then seat" with "then the seat"
100	25	"mistaking" to "mistaken"
109	4	"domestic-only" with "domestic O&D"
110	12-13	"both JFK, New York" to "both JFK, Newark,"
112	21	"competition airfares" to "competition and airfares"
116	18	"domestic-only" with "domestic O&D"
123	25	"domestic-only passenger" with "domestic O&D passengers"
125	23	"or" with "nor"
126	8	"or" with "nor"

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ERRATA SHEET

AMERICAN AIRLINES, INC. VERSUS SKIPLAGGED,

INC. LTD.,

DARIN N. LEE, PH.D. - JULY 11, 2024

Page	Line	Change/Correction
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128	20	"from hub" with "from their hubs"
-----	----	-----------------------------------

132	9	"fair" wtih "fare"
-----	---	--------------------

132	20-21	"first paragraph of Footnote 24" to "footnotes of paragraph 24"
-----	-------	---

135	19	"premium at" to "pre-eminent"
-----	----	-------------------------------

136	3	"not over over" to "not only over"
-----	---	------------------------------------

137	12	"a document" to "as I document"
-----	----	---------------------------------

138	20	"or 90 minutes" to "of 90 minutes or"
-----	----	---------------------------------------

148	2	"surge" to "search"
-----	---	---------------------

151	17	"last seat and" to "last seat in a"
-----	----	-------------------------------------

151	17	"inventory was" to "inventory and was"
-----	----	--

151	18	"inventory" to "purchase"
-----	----	---------------------------

164	12	"go up" with "go out"
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